

---

## Colorado River Basin Regional Water Quality Control Board

October 9, 2015

Mr. Jesse Marshall  
Jacumba Solar LLC  
700 Universe Boulevard  
Juno Beach, Florida 33408

**SUBJECT: DENIAL WITHOUT PREJUDICE OF THE APPLICATION FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION (WQC) FOR THE PROPOSED JACUMBA SOLAR LLC - JACUMBA SOLAR ENERGY PROJECT, WDID No. 7A373006001**

Staff of the California Regional Water Quality Control Board, Colorado River Basin Region (Board) is denying without prejudice the application for a Clean Water Act (CWA) Section 401 WQC for Jacumba Solar LLC - Jacumba Solar Energy Project (Project) as described below. The application is denied without prejudice until the Regional Water Board receives the following:

- 1) An updated 401 application
- 2) Final CEQA documentation; and
- 3) Remaining fee due for processing the application

The proposed Project consists of:

- Developing approximately 20 megawatts (MW) of renewable solar energy that can operate during on-peak power periods that indirectly reduce the need to emit greenhouse gases (GHGs) caused by the generation of similar quantities of electricity from either existing or future non-renewable sources to meet existing and future electricity demands.
- Developing approximately 20 MW of renewable solar energy that satisfies the terms of the Proposed Project's Interconnection Agreement.
- Developing an in-basin utility-scale solar energy project that would improve reliability for the San Diego region by providing a source of local generation as near as possible to the East County (ECO) Substation and other recent regional transmission improvements.

On May 1, 2015, Board staff received Jacumba Solar LLC's application for a 401 WQC, and requested additional information (Final CEQA) and the remaining fee of \$55,237 on August 28, 2015 (please see attached e-mail dated 8/28/2015 with corrections).

ELLEN WAY, CHAIR | ROBERT PERDUE, EXECUTIVE OFFICER

October 9, 2015

Jacumba Solar LLC may reapply following receipt of this denial without prejudice at any time. Regional Water Board staff will retain the application materials submitted to date until a complete application has been submitted. Jacumba Solar LLC's new submittals need not include all of the pertinent previously submitted reports unless the information contained in these reports has changed or is no longer valid.

If you have any questions, please contact Mr. Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or [jmirpour@waterboards.ca.gov](mailto:jmirpour@waterboards.ca.gov).



---

ROBERT PERDUE, Executive Officer  
Colorado River Basin Regional Water Quality Control Board

JJM/

cc: Therese Bradford, Chief, USACE Los Angeles District  
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit  
Elizabeth Goldmann, U.S. Environmental Protection Agency, Region 9  
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

Enc. Staff's E-mail dated 8/28/2015 to DUDEK

File: Jacumba Solar LLC - Jacumba Solar Energy Project, WDID No. 7A373006001

**Mirpour, Jay@Waterboards**

1/2

**From:** Mirpour, Jay@Waterboards  
**Sent:** Friday, August 28, 2015 6:04 PM  
**To:** 'Callie Ford'  
**Cc:** Dunn, Kai@Waterboards  
**Subject:** RE: Jacumba Solar Energy Project, WDID No. 7A373006001

*Please see on Page 2  
Correction on 6/2015*

Hello Callie:

Below, please find my answer to your questions. Your questions are in blue and my answers and question to you are in black.

1) Do you have any initial comments on your review of the permit application? Do you feel that, with the exception of the CEQA document, everything else is complete?

a) The application appears to be complete (except the fee, please see response to question 2).

We received your application on May 1, 2015. Please let me know when your CEQA will be ready. Next week, I'll write a Denial without Prejudice letter to your attention to inform you that your application is incomplete. Your file will be active once staff receives the remaining fee and the CEQA document.

b) I have a question; you wrote on your 401 application that US Army Corps of Engineers issued a file number SPL-2014-00717-SAS and at the same time it is under Nationwide Permit 51. Is that correct?

2) You had a comment regarding the fee calculator in one of your previous emails – we provided the fee calculator we used and submitted a check for that fee. Did you still have a comment on that or have you reviewed our calculations and are OK with the fee?

In your 401 application, you indicated the information below:

Total impact: 0.21 acre streambed unvegetated, 4261 permanent linear feet

I found in Table 2 of Jurisdictional Delineation report the information below (page 8):

Table 2

Jurisdictional Waters	Total Acres	Total Linear Feet
Non-Wetland Waters		
Jacumba Solar Energy Site	3.33	2,361
Gen-Tie Alignment Site	0.01	84
<b>Total Non-Wetland Waters</b>	<b>3.34</b>	<b>24,445</b>

**Could you let me know the total impact (acre and linear)**

If we assume that 0.21 acre streambed unvegetated, 4261 permanent linear feet is correct, then:

2/2

Our office uses the following link to determine the total fee for issuing a water quality certification:

[http://www.waterboards.ca.gov/coloradoriver/water\\_issues/programs/401\\_certification/permit\\_assistance\\_401.shtml](http://www.waterboards.ca.gov/coloradoriver/water_issues/programs/401_certification/permit_assistance_401.shtml)

In calculation, we include both temporary and permanent effects and the fee is based on the total discharge to waters that could potentially cause loss, impairment, or degradation. For your project, the permanent and temporary effects are:

**Calculating total fee based on Acre:**

Total Acre = 0.21

Total fee based on acre 0.21 acre X \$5670 = \$1191

**Calculating total fee based on Length:**

Total feet = 4261

Total fee based on acre 4261 acre X \$13.50 = \$57,523

Our regulations require us to assess the fee for channel and shoreline linear discharges under the "Fill and Excavation" and "Channel and Shoreline" schedules, whichever results in the higher fee. That is why we evaluate the fee based on the size of the discharge area (in acres) and the length of the discharge (in feet), and select the higher of these two calculated fees. Title 23, California Code of Regulations, section 2200(a)(3)(D). Therefore, we select the number which is higher, in this case: \$57,523

Total fee for this project is: ~~\$57,523 + \$600 (base fee) = \$56,924~~ *JJM*

Amount remaining: ~~\$56,924~~ - \$2286 (paid check No. 311445) = ~~\$54,638~~ *57523* *59237* *JJM*

3) Did you receive any feedback during the 21-day public review period?  
No feedback received

Thanks

Jay

From: Callie Ford [mailto:cford@dudek.com]  
Sent: Tuesday, August 25, 2015 3:22 PM  
To: Mirpour, Jay@Waterboards  
Subject: RE: Jacumba Solar Energy Project, WDID No. 7A373006001

Hi Jay,

I was following up on our permit application for Jacumba Solar Energy Project. I understand that you cannot issue the certificate until after the CEQA document has been approved; however, I believe you've had a chance to review the application for overall completeness and to determine any potential issues with the application.