



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

October 6, 2010

Via E-mail & Regular Mail

Mr. Paul Murphey
Division of Water Rights
State Water Resources Control Board
Post Office Box 2000
Sacramento, CA 9512

Dear Mr. Murphey:

Eagle Mountain Pumped Storage Hydro-electric Project,
FERC Project No. 13123 – California, Draft Environmental Impact Report/Statement

The Metropolitan Water District of Southern California (Metropolitan) reviewed the Notice of Completion/Availability for the Draft Environmental Impact Report (Draft EIR/EIS) for the Eagle Mountain Pumped Storage Hydroelectric project, FERC Project No. 13123-000 (Project). The California State Water Resources Control Board is acting as the Lead Agency under the California Environmental Quality Act and the Federal Energy Regulatory Commission (FERC) is acting as the Lead Agency under the National Environmental Policy Act for this Project, collectively "Agencies." The Agencies prepared the Draft EIR/EIS to utilize two existing mining pits to pump and store water to generate power during periods of high demand on federal land near the town of Desert Center, within San Bernardino County. This letter contains Metropolitan's response to the public notice as a potentially affected public agency.

Metropolitan previously provided comments to the Project during the Scoping Period. We reviewed the environmental document and acknowledgment to our comment letter dated January 15, 2009, in Appendix E of the Draft EIR/EIS. In addition, Metropolitan previously provided comments to the FERC for Eagle Crest Energy Crest's Licensing Process, Project No. 12509 and No. P-13123, in comment letters dated February 11 and September 15, 2008, respectively, copies of which are enclosed for reference.

Specific comments on potential environmental issues for consideration and incorporation into the Draft EIR/EIS are listed below.

1. Page 3.3, Subsection 3.3.3.3.4 Colorado River Effects: Colorado River accounting surface issues. The Draft EIR/EIS includes a short discussion of potential effects of groundwater production by the project on water supplies from the Colorado River. The Project proposes to use approximately 8,100 afy (acre feet per year) of water during the initial fill and construction of the reservoirs and approximately 1,800 afy for long-term operations.

Metropolitan holds an entitlement to imported water supplies from the Colorado River. Water from the Colorado River is allocated pursuant to federal law and is managed by the Department of the Interior, Bureau of Reclamation (USBR). In order to lawfully use Colorado River water, a party must have an entitlement to do so. *See* Boulder Canyon Project Act of 1928, 43 U.S.C. §§ 617, et seq.; *Arizona v. California*, 547 U.S. 150 (2006) [“Consolidated Decree”].

According to the Consolidated Decree, consumptive use “includes all consumptive uses of water of the mainstream, including water drawn from the mainstream by underground pumping.” A groundwater basin that is hydro-geologically connected to the Colorado River is considered within the “accounting surface,” and water drawn from below that elevation is assumed to be replaced by Colorado River water. The extent of the accounting surface area for the Colorado River was determined by the U.S. Geological Survey (USGS) and USBR as part of an on-going rule-making process. *See* Notice of Proposed Rule Regulating the Use of the Lower Colorado River Without an Entitlement, 73 Fed. Reg. 40916 (July 16, 2008 [currently suspended]); USGS Scientific Investigation Report No. 2008-5113. To the extent the Project uses Colorado River water, it must have a documented right to do so.

In this project, the static water levels underlying planned wells appear to be over 200 feet above the accounting surface, assumed in the Draft EIR to be between 238 and 240 feet above mean sea level (feet msl). In the event either the accounting surface is determined to be at a different elevation, or the static water levels below the project’s wells begin significantly to drop toward the accounting surface; groundwater production by the project could result in an unauthorized diversion of Colorado River water to the detriment of Metropolitan.

Metropolitan proposes that as a mitigation measure, the project annually report the static water levels beneath each of the project’s production wells, along with a reference either to the accounting surface as proposed by USGS in 2008 or to a valid accounting surface methodology set forth in future legislation, rule-making, or applicable judicial determination.

2. Page 2-14, Section 2.14.3 Spillways: The Draft EIR/EIS indicates that flows overtopping the Lower Reservoir spillway will be conveyed in a channel over or past the buried portion of the Colorado River Aqueduct (CRA). Metropolitan is concerned about structural, water quality, and operational effects of this flow conveyance atop or immediately adjacent to the CRA. In addition, the Final EIR/EIS must provide greater detail indicating the crossing’s proposed design and the specific mitigation measures to prevent any impacts to the CRA, Figure 2.8- Plan Project Features. The Final EIR/EIS should acknowledge that the project proponent will submit all appropriate design plans for Metropolitan’s review and approval for any project component that may affect Metropolitan facilities or rights-of-way.

3. Page 3.3-27, Section 3.3.3.9 Potential Impacts to Groundwater Quality: The Draft EIR/EIS acknowledges there are limited groundwater quality analyses that have been performed in the Chuckwalla Valley; generally, metals exist in reservoir seepage water and brine ponds, and seepage control failure may adversely affect groundwater quality. In addition, the Draft EIR/EIS identifies various mitigation measures, and a groundwater monitoring program will be

implemented within the project vicinity under direction of the State Water Resources Control Board to address these issues and protect the Chuckwalla Basin water quality. The Chuckwalla Basin has previously been considered by Metropolitan, and may be considered in the future, for a conjunctive use water resource project and that maintenance of existing groundwater quality would be critical for future projects. The Final EIR/EIS should specify that all groundwater monitoring data and associated technical reports be made available to Metropolitan, if requested, in the future for assessment of the Chuckwalla Basin groundwater quality.

4. Metropolitan's Eagle Mountain Pumping Plant is one of five pumping plants along the CRA that receives power from Metropolitan's 230-kV transmission system. This power is needed to energize the pumps that supply water to Metropolitan's service area. Metropolitan is concerned the proposed Project may adversely impact its ability to deliver water if the proposed Project causes a disruption to Metropolitan's electric system. Construction activities and operation of any new facilities resulting from the proposed Project should not impede or increase the cost of any electrical operation or maintenance activities on the CRA and its related transmission system. The Final EIR/EIS should identify mitigation measures to prevent such disruptions.

5. Page 3.12-2, Subsection 3.12.2.1: The Draft EIR/EIS indicates the proposed project site is accessible via Eagle Mountain Road, approximately eleven miles south of the site. The Final EIR/EIS should clarify that Eagle Mountain Road is open to the public between Interstate 10 and the Eagle Mountain Pumping Plant, at which point the road stops at the closed gate to Metropolitan's Eagle Mountain Pumping Plant; there is no through access to the proposed Project site through the Eagle Mountain Pumping Plant.

6. Metropolitan's CRA conduit was not designed for AASHTO H-20 loading in this area, and any vehicle crossings must be restricted to the existing paved roadways which have protective slabs in place to distribute this loading away from the pipeline. The Final EIR/EIS should note that any vehicle or equipment which would likely cross the conduit as part of the construction operation of the proposed project will be subject to review and approval by Metropolitan.

7. The Final EIR/EIS should acknowledge that no private or public entity currently has entitlement to build over Metropolitan's fee-owned rights-of-way or properties. Metropolitan's facilities and fee-owned or permanent easement rights-of-way should be considered in planning and in the Final EIR/EIS, and the Project should avoid potential impacts that may occur due to implementation of the Project. Any new facilities related to the Project should not impact accessibility or use of existing Metropolitan facilities. Development associated with the proposed Project must not restrict any of Metropolitan's day-to-day operations or access to its facilities. Metropolitan must be able to maintain its rights-of-way, which requires unobstructed access to Metropolitan facilities and properties at all times in order to repair and maintain our system.

8. In order to avoid potential conflicts with Metropolitan's rights-of-way, Metropolitan requires that any design plans for any activity in the area of Metropolitan's pipelines or facilities be submitted for Metropolitan's review and written approval. The Final EIR/EIS should note that Metropolitan's approval of the Project where it could impact Metropolitan's property will be contingent on such review and approval of design plans for the Project. Detailed prints of drawings of Metropolitan's pipelines and rights-of-way may be obtained by calling Metropolitan's Substructures Information Line at (213) 217-6564. To assist in preparing plans that are compatible with Metropolitan's facilities, easements, and properties, we have enclosed a copy of the "Guidelines for Developments in the Area of Facilities, Fee Properties, and/or Easements of The Metropolitan Water District of Southern California." All submitted designs or plans must clearly identify Metropolitan's facilities and rights-of-way.

9. Page 2-30, List of Approvals: As a result of the Project's potential effects on Metropolitan facilities and rights-of-way, the Final EIR/EIS must identify Metropolitan as an agency whose approval is required. All areas requiring Metropolitan's review and approval shall be clearly identified in the document.

We appreciate the opportunity to provide input to your planning process and we look forward to receiving the Final EIR/EIS, technical studies, and future environmental documentation for this Project. If we can be of further assistance, please contact Mr. Mathew Hacker at (213)217-6756.

Very truly yours,



John Shamma
Manager, Environmental Planning Team

BSM/bsm
(EPT Job No. 2010100504)

Enclosures: Letter dated January 15, 2009
Letter dated September 15, 2008
Letter dated February 11, 2008

cc: Mr. Steven Lowe
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