COLORADO RIVER BOARD OF CALIFORNIA 770 FAIRMONT AVENUE, SUITE 100 GLENDALE, CA 91203-1068 (818) 500-1625 (818) 543-4685 FAX





August 30, 2010

State Clearinghouse 1400 Tenth Street P.O. Box 3044 Sacramento, CA 95812-3044

Regarding SCH# 2009-011-010: Notice of Completion & Environmental Document Transmittal for a draft Environmental Impact Report (EIR) for the Eagle Mountain Pumped Storage Hydroelectric Project located near the town of Desert Center, Riverside County, California

To Whom It May Concern:

The Colorado River Board of California (CRB) has received and reviewed a copy of Notice of Completion & Environmental Document Transmittal for a draft Environmental Impact Report (EIR) for the Eagle Mountain Pumped Storage Hydroelectric Project located near the town of Desert Center, Riverside County, California.

As shown in Figure ES-2 of the draft EIR report, there are three water supply well areas which were proposed to pump groundwater for the proposed Pumped Storage Hydroelectric Project. Those three water supply well areas are located within the "Accounting Surface" area designated by U.S. Geological Survey (USGS) Water Investigation Reports (i.e. WRI 95-4005 and WRI 00-4085). These USGS reports indicates that the aquifer underlying lands located within the "Accounting Surface" is considered to be hydraulically connected to the Colorado River and groundwater withdrawn from those well areas located within the "Accounting Surface" would be replaced by Colorado River water, in part or in total. This means that if it is determined that these wells are, in fact, pumping Colorado River water, a contract with the Secretary of the Interior would be required before such a diversion and use is deemed to be a legally authorized use of this water supply.

According to the Consolidated Decree of the Supreme Court of the United States in the case of *Arizona v. California, et al.* entered March 27, 2006, (547 U.S. 150, 2006), the consumptive use of water means "diversion from the stream less such return flow thereto as is available for consumptive use in the United States or in satisfaction of the Mexican treaty obligation" and consumptive use "includes all consumptive uses of water of the mainstream, including water drawn from the mainstream by underground pumping." Also, pursuant to the 1928 Boulder Canyon Project Act (BCPA) and the Consolidated Decree, no water shall be delivered from storage or used by any water user without a valid contract between the Secretary of the Interior and the water user for such use, i.e., through a BCPA Section 5 contract.

State Clearinghouse August 30, 2010 Page 2

Within California, BCPA Section 5 contracts have previously been entered into between users of Colorado River mainstream water and the Secretary of the Interior for water from the Colorado River that exceeds California's basic entitlement to use Colorado River water as set forth in the Consolidated Decree. Thus, no additional Colorado River water is available for use by new project proponents along the Colorado River, except through the contract of an existing BCPA Section 5 contract holder, either by direct service or through an exchange of non-Colorado River water.

Therefore, the Board suggests that the project proponent/lead agency, State Water Resources Control Board, to consider a preferred option for obtaining a legally authorized and reliable water supply for the subject. That option involves obtaining water through an existing BCPA Section 5 contract holder, The Metropolitan Water District of Southern California. Although other options may be available, it is the Board's assessment that they could not be implemented in a timely manner and address the requirement that water consumptively used from the Colorado River must be through a BCPA Section 5 contractual entitlement. The Board also recommended that the draft EIR should be revised to include that adopted option in the Item Impact 3.3-6 Colorado River Effects in their final EIR.

If you have any questions, please feel free to contact me at (818) 500-1625.

Sincerely,

Gerald R. Zimmerman Acting Executive Director

cc: Mr. Paul Murphey, State Water Resources Control Board Ms. Lorri Gray-Lee, Regional Director, U.S. Bureau of Reclamation Mr. William J. Hasencamp, The Metropolitan Water District of Southern California

Appendix C

Notice of Completion & Environmental Document Transmittal	Notice	of Compl	etion & Fr	vironmental	Document	Transmittal
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Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

Mailing Address: 1001 Street,	ources Control Board 14th Floor		Phone: (916) 341-54	Murphey35
City: Sacramento		Zip: 95814	County: Sacramento	· · · · · · · · · · · · · · · · · · ·
				in CA
Project Location: County: Rive Cross Streets: Kaiser Road (map	attached)	City/Nearest Con	mmunity: Eagle Mounta	Zip Code: 92239
Longitude/Latitude (degrees, minu		· 54.1 * N / 115	• 28 + 18.1. " W Total	
Assessor's Parcel No.:		Section: 36	Twp.: 3S Rang	e: 14E Base: SBB&M
Within 2 Miles: State Hwy #: 1	177	Waterways: Eagle	Creek (ephemeral)	
Airports:		Railways:	Scho	ols: Eagle Mountain
Document Type:				
CEQA: NOP Z Early Cons Neg Dec (F	Draft EIR Supplement/Subsequent El rior SCH No.) ther:		NOI Other: EA Draft EIS	Joint Document Final Document Other:
Local Action Type: General Plan Update General Plan Amendment General Plan Element Community Plan	Specific Plan Master Plan Planned Unit Developme Site Plan	• Rezone Prezone ent Use Fegu Land	JUL 2 3 2010	Annexation Redevelopment Coastal Permit Other: Water Quality On
Development Type:	Acres			
Office: Sq.ft.	Acres Employees_		ortation: Type	
Commercial:Sq.ft.	Acres Employees	Mining		MW 1300
Educational:		Waste 1	Treatment: Type	MGD
Recreational: Water Facilities: Type	MGD		ous Waste: Type	
Project Issues Discussed in I		5 1		
 Aesthetic/Visual Agricultural Land 	Fiscal Flood Plain/Flooding	Recreation/I		Vegetation Water Quality
Air Quality	Forest Land/Fire Hazard	Septic Syste	ans	Water Supply/Groundwater
Archeological/Historical Biological Resources	 Geologic/Seismic Minerals 	Sewer Capa	city t/Compaction/Grading	 Wetland/Riparian Growth Inducement
Coastal Zone	Noise	🔲 Solid Waste		 Land Use Cumulative Effects
Drainage/Absorption Economic/Jobs	 Population/Housing Bala Public Services/Facilities 	ance M Toxic/Haza	raous	
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