

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



February 21, 2012

Ms. Suzan Benz
Environmental Project Manager
Devers-Palo Verde No. 2 Transmission Project
6 Point Drive, 1st Floor
Brea, CA 92821-6320

RE: SCE Devers-Palo Verde No. 2 Transmission Line Project – Variance Request #24

Dear Ms. Benz,

On January 20, 2012, Southern California Edison (SCE) submitted a variance request to the California Public Utilities Commission (CPUC) for approval to purchase Metropolitan Water District of Southern California (MWD) water credits in lieu of Colorado River water credits, as required under Mitigation Measure H-7c, due to the unavailability of water allotments within the Colorado River Basin for the Colorado River Substation component of the Devers-Palo Verde No. 2 (DPV2) Transmission Project.

The CPUC voted on January 25, 2007 to approve the SCE DPV2 Transmission Line Project ([Decision D.07-01-040](#)). On May 14, 2008, SCE filed a Petition for Modification (PFM) of the existing Certificate for Public Convenience and Necessity (CPCN) approved per Decision D.07-01-040. SCE requested that the CPUC authorize SCE to construct DPV2 facilities in only the California portion of DPV2 and the Midpoint Substation (now called the Colorado River Substation) near Blythe, California. The CPUC approved SCE's PFM on November 20, 2009 in [Decision D.09-11-007](#).

After the CPUC's 2009 Decision regarding the PFM, several large solar power projects were proposed in the Blythe and Desert Center areas. SCE filed Permit to Construct applications addressing expansion of the Colorado River Substation and construction of a new Red Bluff Substation. These components were not covered in the original DPV2 Final EIR/EIS, because the solar power projects had not yet been proposed, and supplemental environmental review has been conducted. The Colorado River Substation Expansion and the Red Bluff Substation were both approved by the CPUC on July 14, 2011 in Decisions D.11-07-011 and D.11-07-020, respectively.

The BLM issued a Record of Decision approving the Project on July 19, 2011 and approved exclusionary fencing activities on August 23, 2011. The Project also crosses lands under jurisdiction of the U.S. Department of Agriculture Forest Service on the San Bernardino National Forest within an existing Forest Service-issued easement. The Forest Service will issue a revised easement signed by the Forest Supervisor. The area requested under this variance does not fall under Forest Service jurisdiction.

The CPUC also adopted a Mitigation, Monitoring, Compliance and Reporting Program (MMCRP) to ensure compliance with all mitigation measures imposed on the DPV2 Project during implementation. The MMCRP also acknowledges that temporary changes to the project are anticipated and common practice for construction efforts of this scale and that a Variance Request would be required for these activities. This letter documents the CPUC's thorough evaluation of all activities covered in this variance, and that no new impacts or increase in impact severity would result from the requested variance activities.

Variance #24, which approves the purchase of MWD water credits, is granted by CPUC for the proposed activities based on the factors described below.

SCE Variance Request. SCE has requested a variance to purchase MWD water credits in lieu of Colorado River water credits, as required under Mitigation Measure H-7b for the Colorado River Substation. Excerpts from the SCE Variance Request, received February 8, 2012, are presented below (indented):

The following mitigation measure was incorporated into the Final Supplemental Environmental Impact Report (Final SEIR) for the CRS. The Final SEIS states that *"If pre-construction groundwater monitoring conducted in compliance with Mitigation Measure H-7b (Groundwater Monitoring and Reporting Plan) indicates that groundwater pumping for the Proposed Project would draw water from below the Colorado River accounting surface of 234 feet above mean sea level (amsl), the Applicant (SCE) shall undertake one or more of the activities identified below to mitigate project impacts to flows in the Colorado River. These activities shall result in replacement of water used by the project over the life of the project. Measures of water conservation should be considered in the following order of priority:*

- *Payment for irrigation improvements in Palo Verde Irrigation District (PVID);*
- *Purchase of water allotments within the Colorado River Basin that will be held in reserve;*
- *Use of tertiary treated water;*
- *Implementation of water conservation programs in the floodplain communities of the Chuckwalla, Valley Groundwater Basin, the Palo Verde Mesa Groundwater Basin, and/or Colorado River; and/or*
- *Participation in the U.S. Bureau of Land Management's (BLM) Tamarisk Removal Program.*

Per the Water Supply Plan - Colorado River Substation (SCE, 2011), Section 4.1.2, Page 4-1, SCE attempted to purchase Colorado River water allotments through the Lower Colorado Water Supply Project, or the "Needles Program." The City of Needles is the administrator of this program. During development of the plan, it appeared the program could supply water to the project. After approval of the plan, SCE submitted an application to the Needles program administrators, and it was determined that the program could not supply water to the project. The Colorado River Board of California suggested contacting a holder of Colorado River Water Rights per the Boulder Canyon Project Act (BCPA) of 1928 and the Consolidated Decree, Section 5. The letter from the Colorado River Board suggesting this approach is attached.

In response, SCE contacted the Metropolitan Water District of Southern California (MWD), a BCPA Section 5 contract holder, to inquire as to whether SCE could purchase water allotments from MWD. Those allotments would be held in reserve by SCE to offset any draw-down of groundwater to a level below the Colorado River accounting surface elevation of 234 feet mean sea level (msl). Although it appears that the intent of Mitigation Measure H-7b may have been to offset Colorado River aquifer water with other Colorado River aquifer water, MWD indicated that as a Section 5 rights holder, it cannot legally sell any of its Colorado River water allotment to a private user. The MWD can sell non-Colorado River water rights to a private user, but as a junior water rights holder to Colorado River water, MWD cannot sell Colorado River water rights.

SCE requests a variance to confirm that SCE can satisfy Mitigation Measure H-7b by purchasing non-Colorado River water rights from MWD. The action is administrative on the part of the MWD and is necessary in accounting for its Colorado River water rights as apportioned among rights holders.

Please note that SCE recently completed its construction of the CRS groundwater supply well. The static groundwater level was measured and found to be well above the Colorado River Accounting Surface elevation. Groundwater well testing has also shown that water can be extracted from the supply well at rates suitable for construction, with well draw-down remaining above the accounting surface elevation of 234 feet above msl. SCE intends to use water for construction from above the accounting surface to the extent possible. SCE will continue to monitor and report groundwater elevations as per the Water Supply Plan – Colorado River Substation (SCE, 2011).

CPUC Evaluation of Variance Request

In accordance with the MMCRP, the subject variance request was reviewed by CPUC to confirm that no new impacts or increase in impact severity would result from the requested variance activities. The following discussion summarizes this analysis for water resources and other issue areas. A list of mitigation consistency requirements is presented below to define additional information and clarifications

regarding compliance with mitigation requirements. In some cases, these items exceed the requirements of the Mitigation Measures and Applicant Proposed Measures, and are based on specific site conditions and/or are proposed conditions by SCE.

Water Resources. SCE has submitted a Variance Request to satisfy the water offset requirements of Mitigation Measure (MM) H-7b (Groundwater Monitoring and Reporting Plan) by purchasing non-Colorado River water allotments rather than by obtaining Colorado River water allotments. The intent of MM H-7b is to ensure that the project does not consume any Colorado River water without legal entitlement to such water by requiring that if groundwater pumping at the Colorado River Substation site draws from below the river's Accounting Surface of 234 feet above mean sea level (amsl), SCE will obtain Colorado River water allotments to replace this water on an acre-foot by acre-foot basis.

It has been determined that the stipulation under MM H-7b for SCE to purchase Colorado River water allotments is infeasible. The Colorado River Board of California has recommended that SCE should secure water allotments from the Metropolitan Water District (MWD) of Southern California because MWD holds Colorado River Water Rights per the Boulder Canyon Project Act (BCPA) of 1928 and the Consolidated Decree, Section 5. MWD is a junior water rights holder and therefore cannot sell Colorado River water allotments to a private user, such as SCE; however, MWD is able to sell non-Colorado River water allotments to SCE, towards satisfaction of MM H-7b.

Although the original intent of MM H-7b was to replace any Colorado River water consumed under the project with allotments of Colorado River water, it has been determined that the use of non-Colorado River water allotments would satisfy this measure for several reasons, listed below.

- It is infeasible for SCE to obtain Colorado River water allotments, as originally required by MM H-7b, and the use of non-Colorado River water allotments would ensure that SCE has a legally authorized and reliable water supply for the project, thus avoiding the potential for unauthorized water use that could result in adverse environmental effects.
- Securing non-Colorado River water allotments would satisfy part of the intent of MM H-7b for SCE to be held accountable for any groundwater pumping that could result in consumption of Colorado River water.
- Use of non-Colorado River water allotments to meet MM H-7b would not introduce new adverse environmental effects, or effects that have not already been characterized in the project's Supplemental EIR.
- Use of non-Colorado River water allotments to meet the requirements of MM H-7b would ensure that MWD's Colorado River water rights apportioned to other water rights holders would not be adversely affected.
- SCE recently completed its construction of the CRS groundwater supply well and has initiated monitoring activities, which indicate that: (a) the static groundwater level is well above the Colorado River Accounting Surface of 234 feet amsl, and (b) this groundwater supply well is capable of meeting the project's water supply requirements without resulting in drawdown below the Colorado River Accounting Surface. These preliminary monitoring results suggest that the project would not result in consumption of Colorado River water such that offsets would be required per MM H-7b.
- Groundwater monitoring at the CRS supply well and coordination between SCE and CPUC regarding monitoring results will continue for at least five years, per the requirements of MM H-7b and the CRS Water Supply Plan, ensuring that potential drawdown effects associated with both construction and operation (which requires approximately 200 percent less water

than construction) would be identified and responded to. These actions ensure that water use associated with the project would not result in substantial adverse effects, including as related to the potential for use of Colorado River water to occur.

With consideration to the factors listed above, there are no additional water resources concerns.

Other Issue Areas. No concerns noted under this variance.

Conditions of Variance Approval.

All applicable project mitigation measures, APMs, conditions of the Biological Opinion, compliance plans, permit conditions and NTP conditions shall be implemented. Some measures have on-going/time-sensitive requirements and shall be implemented prior to and during construction where applicable.

Please contact me if you have any questions or concerns.

Sincerely,

Billie Blanchard

Billie Blanchard
CPUC Environmental Project Manager
DPV2 Transmission Project

cc: Ryana Parker, Southern California Edison
Patty Nevins, Southern California Edison
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