



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

OCT 03 2012

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Dear Secretary Bose:

POTENTIAL CONFLICT OF DRAFT 401 WATER QUALITY CERTIFICATION CONDITIONS AND THE TERMS AND CONDITIONS OF THE BIOLOGICAL OPINION FOR THE EAGLE MOUNTAIN PUMPED STORAGE PROJECT, FEDERAL ENERGY REGULATORY COMMISSION PROJECT NO. 13123

The State Water Resources Control Board (State Water Board), Division of Water Rights received a letter from the Federal Energy Regulatory Commission (FERC), dated August 17, 2012, describing a potential conflict between the State Water Board's 401 water quality certification (certification) and the United States Fish and Wildlife Service's (USFWS) Biological Opinion (BO) regarding fencing requirements around the reservoirs of the proposed Eagle Mountain Pumped Storage Project (Project), FERC Project No. 13123.

The State Water Board's draft Environmental Impact Report (EIR) for the Project, released for public comment on July 23, 2010, and the draft certification, released for public comment on June 27, 2012, include mitigation measures that require the Project applicant to construct fencing around the Project reservoirs with setbacks to allow wildlife access to drinking water. The USFWS' BO, issued on April 10, 2012, and the California Department of Fish and Game's Consistency Determination (Determination) issued on May 11, 2012, require the Project reservoirs and desalination ponds to have exclusion fencing that completely encloses these facilities, without setbacks, to prevent wildlife access to drinking water.

State Water Board staff reviewed the fencing requirements of the BO and Determination. Based on the BO and Determination, State Water Board staff plans to modify the EIR and the certification in accordance with the fencing requirements described in the BO and Determination.

If you have questions regarding this letter, you may contact me at (916) 323-9397 or by email at obiondi@waterboards.ca.gov. Written correspondences or inquiries should be addressed as follows: State Water Resources Control Board; Division of Water Rights; Attn: Oscar Biondi; P.O. Box 2000; Sacramento, CA 95812-2000.

Sincerely,

Oscar Biondi, WRCE
Water Quality Certification Program
Division of Water Rights

cc: See next page.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

OCT 03 2012

cc: Ms. Nisa Marks
United States Fish and Wildlife Services
Palm Springs Fish and Wildlife Office
777 E. Tahquitz Canyon Way, Suite 208
Palm Springs, CA 92262

Ms. Sandra Morey
California Department of Fish and Game
Ecosystem Conservation Division
1416 Ninth Street, Suite 1208
Sacramento, CA 95814

Mr. Kenneth Hogan
Federal Energy Regulatory Commission
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Mr. Stephen Lowe, President
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