



GRATTAN
GERSICK
KARP
MILLER

GOVERNMENTAL RELATIONS AND CONSULTING
1029 J STREET, SUITE 300 • SACRAMENTO, CALIFORNIA 95814 • (916) 443-0191 • FAX (916) 325-4977

MAY 29 1996

MEMORANDUM
(Via Facsimile)

DOCKET 89-AFC-1C
DATE MAY 28 1996
RECD. MAY 30 1996

TO: Mr. Steve Munro

FROM: Michael Gersick

DATE: May 28, 1996

SUBJECT: Text of proposed Biological Resources Condition 5, 88-AFC-1, and proposed Biological Resources Condition 11k, 89-AFC-1.

We have reviewed your May 21, 1996 proposed revision to the above referenced Conditions of Certification.

Attached you will find LSP VIII's and LSP IX's joint proposal for further revision of your draft language.

In general, our proposed revisions to your draft of both Conditions and their respective verifications reflect project owners' prerequisites regarding:

1. the need to segregate the future administrative and financial obligations of the two facilities (SEGS VIII and SEGS IX) for the purpose of cost-accounting;
2. clarification that the provision of up to the maximum referenced volume of water be used exclusively for the purpose of maintaining the southern and central marshes, and that title to the water, and the sole responsibility for proper management of the water, passes to the Bureau of Land Management at the property line;
3. their acknowledgement and acceptance of the Commission's requirement to provide the water alloied with the owners' reservation of the means and mechanisms which they may utilize to execute that responsibility, so long as the water to be provided initially passes the

Mr. Steve Munro
May 28, 1996
Page Two

(somewhat subjective) water quality test described by Ken Carter of the Lahontan Regional Water Quality Board staff in our May 2 workshop; and, of primary importance,

4. the absolute necessity of relief from future water quality testing and requests for substitution of sources, and immunity from liability of any kind arising from any alleged impacts of discharging the water.

Please call if you have any questions.

MG\

D:\wp51\mg\ee\marsh\eepto.ccc

SEGS VIII Biological Resources Condition 5:

The project owner shall, ~~in cooperation with the SEGS IX project owner,~~ provide up to 37.5 acre feet per year of water at a point on the Bureau of Land Management's (Bureau) property line indicated on Figure 1, to be used, at the sole discretion of the Bureau, exclusively for the purpose of maintaining the "central and/or southern Harper Lake marshes" ~~a combined total of 75 acre feet per year of well water for delivery to the BLM, under the BLM's control for use in the central and/or southern Harper Lake marshes for the life of the project. The well is subject to approval by the CEG CPM. The project owner must test the water for constituents identified by the Commission in cooperation with the staff of the Lahontan Regional Water Quality Control Board.~~ Source well water quality test results must initially demonstrate water quality which staff of the Lahontan Regional Water Quality Control Board accepts as comparable to ground water in the vicinity of the marshes. ~~After the test results are accepted and the entire condition is fulfilled, there will be no future testing required of the project owners provided that 75 acre feet per year continue to be made available from the approved well. The water pipe termination must be accessible at a location acceptable to the BLM~~

The Commission acknowledges that the quality of the water source provided may vary over time. Once the identified water source has been deemed acceptable, in writing, by the Lahontan Board Staff, the project owner shall have no further obligations or requirements related to water quality which arise from this Condition. Further, the Commission and the State of California agree to indemnify, defend and hold harmless the project owner and their authorized agents, officers and employees against any and all claims and actions arising from the discharge of groundwater from the identified well as required by the Commission under this Condition, and for any costs or expenses incurred by the project owner on account of any claims therefor.

Verification: Within 90 days of signature on the Commission Order implementing this condition, the project owner shall submit all of the following:

1. Well water test results needed for acceptance of its proposed ~~well water~~ source.
2. ~~Plane A~~ simple map showing the location of the selected well ~~and construction detail to the extent it is available, pipe dimension and pipe route in relation to the central and southern marshes and relevant property lines.~~
3. A contract with the ~~landowner~~ water right owner securing the rights to use ~~and maintain the well and pump up to 75~~ take up to 37.5 acre feet of water per year for the life of the project.
4. ~~A statement from a qualified technician or contractor stating that the pump and necessary piping are complete and ready to provide water to the BLM.~~

SEGS IX Biological Resources Condition 11k.:

The project owner shall, ~~in cooperation with the SEGS IX project owner,~~ provide up to 37.5 acre feet per year of water at a point on the Bureau of Land Management's (Bureau) property line indicated on Figure 1, to be used, at the sole discretion of the Bureau, exclusively for the purpose of maintaining the "central and/or southern Harper Lake marshes" ~~a combined total of 75 acre feet per year of well water for delivery to the BLM, under the BLM's control for use in the central and/or southern Harper Lake marshes for the life of the project. The well is subject to approval by the CEC GPM. The project owner must test the water for constituents identified by the Commission in cooperation with the staff of the Lahontan Regional Water Quality Control Board.~~ Source well water quality test results must initially demonstrate water quality which staff of the Lahontan Regional Water Quality Control Board accepts as comparable to ground water in the vicinity of the marshes. ~~After the test results are accepted and the entire condition is fulfilled, there will be no future testing required of the project owners provided that 75 acre feet per year continue to be made available from the approved well. The water pipe termination must be accessible at a location acceptable to the BLM~~

The Commission acknowledges that the quality of the water source provided may vary over time. Once the identified water source has been deemed acceptable, in writing, by the Lahontan Board Staff, the project owner shall have no further obligations or requirements related to water quality which arise from this Condition. Further, the Commission and the State of California agree to indemnify, defend and hold harmless the project owner and their authorized agents, officers and employees against any and all claims and actions arising from the discharge of groundwater from the identified well as required by the Commission under this Condition, and for any costs or expenses incurred by the project owner on account of any claims therefor.

Verification: Within 90 days of signature on the Commission Order implementing this condition, the project owner shall submit all of the following:

1. Well water test results needed for acceptance of its proposed ~~well water~~ source.
2. ~~Plans~~ A simple map showing the location of the selected well, ~~and construction detail to the extent it is available, pipe dimension and~~ pipe route in relation to the central and southern marshes and relevant property lines.
3. A contract with the ~~landowner~~ water right owner securing the rights to use ~~and maintain the well and pump up to 75~~ take up to 37.5 acre feet of water per year for the life of the project.
4. ~~A statement from a qualified technician or contractor stating that the pump and necessary piping are complete and ready to provide water to the BLM.~~

Key:

material appearing shaded is new material

material appearing in italics and stricken is proposed by LSP to be deleted from GEG draft (5/21/96)

~~material appearing stricken is material proposed by GEG to be stricken from prior draft (pre 5/21/96)~~

...\\ng\esil\marsh\mrh\ndC.528

GRATTAN GERSICK KARP MILLER
1029 J STREET, SUITE 300
SACRAMENTO CA 95814
916-443-0191
FACSIMILE NO. 916-325-4977

FACSIMILE TRANSMITTAL FORM

TO: Steve Munro
Michael Patch

FROM: Michael Gersick

DATE: May 28, 1996

TIME: 4:45pm

FAX NO.: #090
#093

FAXED
5/28/96

NUMBER OF PAGES (including cover): Six

- FOR YOUR REVIEW
- PER YOUR REQUEST
- PLEASE RESPOND
- FOR YOUR INFORMATION

HARD COPY TO FOLLOW BY:
FEDERAL EXPRESS
REGULAR MAIL
To Steve Munro Only

SUBJECT OF DOCUMENTS/COMMENTS: