

# **THE CASE FOR INCLUDING EXPENDITURES FOR THE LEAPS PROJECT IN THE FY 2007-2008 EVMWD BUDGET**

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*by*

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During the past several years, it has been very difficult for EVMWD's ratepayers to critically review the District's involvement in the LEAPS Project for two main reasons. First, most of the business issues relating to this project have been discussed in Board meetings during sessions that were closed to the public. And second, the District's anticipated expenditures on the LEAPS Project have not been included in past annual budgets.

There is much to be said about the practice of limiting the public's knowledge about LEAPS using closed sessions. However, today, I'd like to limit my comments to the second of these two issues. That is, properly budgeting for LEAPS going forward in fiscal year 2007-2008.

In the past, the District justified not including expenditures for LEAPS in the annual Budget by taking the position that these expenditures were effectively "loans" from EVMWD to The Nevada Hydro Company (Nevada Hydro) that would be repaid. In view of the likely repayment, the expenditures were deemed to be exempt from inclusion in the Budget.

There is some logic that might support this position in the past if there was a reasonable probability that Nevada Hydro would, in fact, repay the "loans" at some future date.

However, in view of significant developments that occurred during the past year, it now appears that the probability of repayment by Nevada Hydro is extremely small, near to zero. In view of this, it is important that EVMWD modify past practices and include expenditures on LEAPS in the FY 2007-2008 Budget. The following is a summary of the five most important developments:

1. The only written document describing the Development Agreement between EVMWD and Nevada Hydro for the LEAPS Project was signed and dated in 1997. During the past year, the public was told at several different Board meetings that this Agreement was so out of date that it was no longer considered relevant by EVMWD and that the negotiations to revise this Agreement were near to being completed. Later, however, Mr. Ron Young advised the Federal Energy Regulator Commission (FERC) by a letter dated November 22, 2006 that the negotiations for a revised Agreement had reached an impasse. It is my understanding that the impasse continues to date.

Thus, there may be no current Agreement that requires Nevada Hydro to repay anything.

2. The other possibility is that certain terms in the 1997 Agreement, including the repayment clauses, may still be considered to be in effect. The actual wording in the 1997 Agreement states that Nevada Hydro:

*will reimburse District for all of its expenditures*

but only under the condition that there is a

*successful closing of all financing and/or equity contribution required to construct and operate the [LEAPS] project.*

Before going on, it should be noted that the 1997 Agreement speaks only to EVMWD expenditures. Nowhere does it categorize these expenditures as “loans”. Nor, does the Agreement guarantee repayment to EVMWD. In fact, the present situation is quite the opposite, in view of the developments described next.

3. The climate for private investment in hydroelectric projects such as LEAPS is very poor. In a letter dated October 2, 2006, the FERC advised that during the past 20 years they have issued 45 preliminary permits to enable developers to study the potential for building pumped-storage projects similar to LEAPS. But none of the projects has yet received financing.

4. In a report from the California Electricity Oversight Board (CEOB) to FERC dated May 1, 2007 it was reported that:

*During the April 19, 2007, public CAISO Board of Governors meeting, Governor Tim Gage asked whether the LEAPS plant was viable strictly as a merchant generator. TNHC [Nevada Hydro] responded that the LEAPS project was not viable strictly as a merchant plant.*

In view of this admission by Nevada Hydro, it is highly unlikely (nearly inconceivable) that private investment will be made in the LEAPS Project.

5. The only alternative possibility for financing the LEAPS project was to have it paid for by the public. A specific concept had been proposed in November, 2005 by Nevada Hydro to add the cost for LEAPS to the Transmission Access Charges (TAC) on monthly bills paid by the California electricity ratepayers.

This possibility has been eliminated by a statement made by the California Independent Systems Operator (CAISO) on May 1<sup>st</sup> that:

*...the CAISO had concluded that recovery of the costs of the pumped storage facility portion of the TNHC [Nevada Hydro] combined proposed project [the LEAPS Project] through the CAISO's transmission Access Charge (AC) should not be allowed..,*

CAISO went on to say:

*Allowing TNHC [Nevada Hydro] to recover the costs of the facilities that provide these services via guaranteed cost recovery in the TAC while other providers of these services must face the risks of recovering their costs in the market is unduly discriminatory and inconsistent with fundamental market principles.*

In summary, there is no way that the hydroelectric power plant can be financed, either publicly or privately.

However, there may be one last hope that EVMWD may recover their cumulative expenditures on LEAPS, which now exceed \$3 million, from

Nevada Hydro. I decided to mention this hope here because it is, at best, a misplaced hope.

The statements above, made by the CEOB and the CAISO relate to the hydroelectric power plant associated with LEAPS. They do not relate to the other component of the LEAPS Project that is a high voltage electrical transmission line that is proposed to run through the Cleveland National Forest. It is broadly believed that this transmission line might be economically viable as a stand alone Project (without the hydroelectric power plant) and Nevada Hydro seems keen on moving forward with its financing and construction.

However, EVMWD, as a co-applicant with Nevada Hydro for the LEAPS Project, has consistently taken the position that they have no interest or desire to participate in a power lines only project. This position is strongly emphasized by Ron Young in his letter to FERC dated November 22, 2006. There he states:

*..the District will not be a party to any effort to obtain ..... authority to construct a transmission-only project.*

That leaves Nevada Hydro in an awkward position because it would be very difficult for them to go forward with the power lines project without EVMWD's support.

But, it's been rumored that Nevada Hydro may be willing to guarantee EVMWD full payment for their expenditures on LEAPS if the District changes their position to support the power lines only project.

While it may, at first, appear attractive for EVMWD to consider accepting such an offer from Nevada Hydro in order to recover the \$3 to \$3.5 million that has already been expended on LEAPS, this action would likely produce a new and far more costly problem for EVMWD.

The new problem would be that there is no sound justification for EVMWD to be involved in a power lines only project. So, by helping Nevada Hydro to realize the power lines, EVMWD would be exposing themselves to major lawsuits from property owners along the path of the power lines who might claim that EVMWD's overreaching support of the power lines has caused their property values to diminish.

Loss of property values is a very serious and likely possibility. In fact, FERC mentioned in the Environmental Impact Statement (EIS) that they prepared for the LEAPS Project that values have fallen *in the range from 1% to 10% but are sometimes considerably greater* for properties near to similar power projects. FERC specifically mentions that *the greatest potential for negative effects on property values lies with ... the transmission line.*

One can only begin to realize the magnitude of this potential liability by noting that the combined property values in just two communities, La Cresta and Tenaja, that will be passed by the power lines, if built, exceed \$2 billion. A loss of, say, 5% of that amount, which is in the middle of the range suggested by FERC, would equal a liability in excess of \$100 million.

So, it seems it would be a very bad decision for EVMWD to accept \$3 million, or so, from Nevada Hydro only to take on a liability in excess of \$100 million.

**The bottom line is that going forward into the FY 2007-2008, EVMWD should properly budget for all future LEAPS expenditures because there is no longer any realistic probability that Nevada Hydro will reimburse the District for these expenditures..**

Further, the 2007-2008 Budget should include provisions for dealing with the \$3.5 million, or so, loss of the previously anticipated repayment from Nevada Hydro.

