

DEPARTMENT OF ENERGY**Western Area Power Administration****Parker-Davis Project—Post-2008 Resource Pool**

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final power allocation.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), announces the Parker-Davis Project (P-DP) Post-2008 Resource Pool Final Allocation of Power (Resource Pool Final Power Allocation), developed under the requirements of the Energy Planning and Management Program (EPAMP). This notice also includes Western's responses to public comments on the proposed allocations published July 17, 2006.

The Resource Pool Final Power Allocation documents Western's decisions prior to beginning the contractual phase of the process. Firm electric service contracts, with the allottees in this notice, will extend from October 1, 2008, through September 30, 2028.

DATES: The Resource Pool Final Power Allocation will become effective January 3, 2007.

ADDRESSES: Information regarding the Resource Pool Final Power Allocation, including comments, letters, and other supporting documents, is available for public inspection and copying at the Desert Southwest Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009. Public comments and related information may be viewed at <http://www.wapa.gov/dsw/pwrmtk>.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Young, Re-marketing Program Manager, Desert Southwest Regional Office, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005-6457, (602) 605-2594, e-mail post2008pdp@wapa.gov.

SUPPLEMENTARY INFORMATION: Subpart C—Power Marketing Initiative (PMI) of EPAMP's Final Rule, 10 CFR part 905 (60 FR 54151), developed in part to implement Section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. EPAMP calls for planning and efficient electric energy use by Western's long-term firm power customers and provides a framework for extending Western's firm power resource commitments. One aspect of EPAMP is to establish project-specific power resource pools when existing resource commitments expire and to

allocate power from these pools to eligible preference customers. Existing resource commitments for the P-DP expire on September 30, 2008. Western published its decision to apply the EPAMP PMI to the P-DP in the **Federal Register** on May 5, 2003 (68 FR 23709). This decision created a resource pool of approximately 17 megawatts (MW) of summer season capacity and 13 MW of winter season capacity, based on estimates of current P-DP hydroelectric resource availability, for allocation to eligible preference customers for 20 years beginning October 1, 2008. The resource pool includes 0.869 MW of summer season withdrawable capacity and 0.619 MW of winter season withdrawable capacity. The associated energy will be a maximum of 3,441 kilowatt-hours per kilowatt (kWh/kW) in the summer season and 1,703 kWh/kW in the winter season, based on current marketing plan criteria.

Western published a notice of proposed allocation procedures and a call for applications in the **Federal Register** on October 1, 2004 (69 FR 58900). Applications received by January 30, 2005, were considered. A notice of final procedures for use in allocating power from the P-DP Post-2008 resource pool (Final Allocation Procedures) was published in the **Federal Register** on December 16, 2005 (70 FR 74805). The Final Allocation Procedures include the eligibility criteria, allocation criteria, and P-DP power contract principles.

Western published the Parker-Davis Project Post-2008 Resource Pool Proposed Power Allocation (Resource Pool Proposed Power Allocation) in the **Federal Register** on July 17, 2006, (71 FR 40503) and initiated a public comment period on the proposed power allocations. Public information forums were held on August 29 and August 31, 2006, and public comment forums were held on September 12 and September 14, 2006. The public comment period ended on September 15, 2006.

The Resource Pool Final Power Allocation was determined from the applications received during the call for applications in accordance with the guidelines and criteria of the Final Allocation Procedures, the current P-DP Marketing Plan (49 FR 50582, 52 FR 7014, and 52 FR 28333), and EPAMP.

Response to Comments on Resource Pool Proposed Power Allocation*Comments and Responses*

Comment: Several comments commended Western for conducting a fair and equitable allocation process. The comments stated that Western went

through a very thorough, complete, open, and methodical process to arrive at the proposed allocations. Western held a sequence of open meetings where all applicants had equal opportunity to access the program information regarding the allocation processes, obtain a clear definition of the information and data required for the application and the application schedule, and update the application data when the schedule was delayed. Western also provided applicants with a definitive investigation of load, organization, and the organizational ability to utilize the allocation in the manner prescribed. The comments also expressed great appreciation for the integrity of the allocation investigation and determination process which assured that the results were based upon a thorough review of each application to confirm qualifications and conformance with the Final Allocation Procedures.

Response: Western appreciates the support for the lengthy, thorough and methodical P-DP re-marketing process.

Comment: Western received a comment that it was inappropriate to limit the first priority of consideration for allocations to entities that have no contracts with Western stating that the existence of a power contract by itself is not adequate to disqualify an applicant from the first priority of consideration unless that contract provides meaningful electric service. The commenter stated that their allocation from the Colorado River Storage Project (CRSP) was not meaningful because it did not consider loads on that portion of the reservation located in California.

Response: The Final Allocation Procedures, consistent with EPAMP, provide first priority for consideration to preference entities in the P-DP marketing area that do not have a contract with Western for Federal power resources and are not a member of a parent entity that has a contract with Western for Federal power resources. This priority was incorporated in the Final Allocation Procedures to further promote widespread use of Federal resources which is a goal of EPAMP and this allocation process. The Final Allocation Procedures do not provide for an exception based upon the meaningfulness of electric service provided by the power allocation in such contract with Western or the loads considered when the allocation for Federal power under existing contracts was made. The entity submitting this comment has a CRSP allocation of 6.42 MW (summer capacity), and a P-DP allocation of 8.9 MW (summer capacity), for a total Federal power allocation of 15.32 MW (summer capacity). The

existing P-DP allocation of 8.9 MW considered all loads in the P-DP marketing area, which includes that portion of the reservation located in California. Western considers all Federal power allocations to be meaningful, including this entity's existing Federal power allocations of 15.32 MW. Western's proposed power allocations conform to the Final Allocation Procedures by excluding entities from the first priority of consideration for an allocation of power from the resource pool based on their existing contracts with Western for Federal power resources. Comments proposing changes to the eligibility and allocation criteria are outside the scope of this notice. This notice of Final Power Allocation considers comments regarding the Resource Pool Proposed Power Allocation.

Comment: A comment was received expressing appreciation for recognition of the statutory obligation to give priority consideration to Indian irrigation pumping load on certain Indian lands adjacent to the Colorado River in the lower basin. The comment stated that the Colorado River Indian Tribe (CRIT) has irrigation pumping load in California and that they now look forward to getting a piece of that power, which Congress and the Supreme Court clearly wanted CRIT to have for the benefit of the tribes, and they look forward to using that power on the California side of the river, which they believe has been neglected in appraisals by Western.

Response: The CRIT currently has a P-DP allocation of 8.9 MW (summer capacity) which was based on a consideration of loads in the P-DP marketing area which includes southern California. The CRIT P-DP allocation of 8.9 MW specifically considered and provided capacity for on-reservation irrigation pumping loads, as documented in the Bureau of Indian Affairs for Colorado River Indian Reservation Memorandum of Understanding for Electric Service (Memorandum No. 14-06-300-2627 dated April 1, 1976). CRIT's application data did not identify additional irrigation pumping load in California above that already provided for under their existing P-DP allocation.

Comment: Several comments were received providing additional supplemental application information, revising load data previously submitted, or requesting that Western reconsider an allocation based upon potential future loads. Western also received several comments expressing appreciation that the process included ample opportunity to provide information in support of

applications for power, including an extension of the deadline for receipt of applications to January 30, 2005, and the opportunity to provide updated application data by the deadline date of April 1, 2006.

Response: Applications, including load information, were required to be submitted by January 30, 2005. In accordance with the Final Allocation Procedures, actual load data submitted no later than April 1, 2006, was considered for calendar year 2003 or the most recent 12 months. In response to a comment that Western should consider future projected load, Western declined to allow consideration of future load projections, but did provide an opportunity for applicants to update actual load data to the most recent 12 months available for submission prior to the April 1, 2006, deadline.

Comment: One applicant for power from Western who was determined to not meet the General Eligibility Criteria of attaining electrical utility status requested an explanation of whether the decision to not grant an allocation of power was based upon the fact that their cooperative members are served by investor owned and publicly owned utilities, when the allocation criteria stated that arrangements with third parties for transmission and distribution by April 1, 2008, were acceptable.

Response: Third party transmission and/or distribution arrangements are different criteria from electrical utility status. Having a need for third party transmission arrangements does not prevent an entity from satisfying the electrical utility requirements. Applicants, including cooperatives, desiring to purchase power from Western for resale to consumers were required to attain electrical utility status by April 1, 2006, to be eligible for an allocation. Having electrical utility status means the applicant has the responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis for resale to retail consumers. This applicant was determined to not be eligible for an allocation because it did not meet these electrical utility status requirements.

Allottees, including those that are electrical utilities, are required to have transmission, displacement, or distribution arrangements in place by April 1, 2008, if such arrangements are needed to take delivery of P-DP power beyond the P-DP point(s) of delivery. Arrangements may be with investor owned utilities or publicly owned utilities for entities that require third

party transmission, displacement, or distribution.

Comment: Several comments expressed disappointment at not being selected for an allocation and expressed understanding that there was a limited quantity of power available to distribute among a significant number of applicants. Some of these entities supported the allocations as proposed, while others requested that Western reconsider them for allocations if one of the current successful applicants is unable to receive its proposed allocation.

Response: If any of those receiving an allocation are unable to place the power under contract, the power will be offered to existing contractors up to the amount they contributed to the resource pool. Beyond that, any remaining resource pool power will be used as determined by Western.

Comment: Several comments expressed appreciation for recognition of the Native American needs in making the allocations and noted the economic benefits that the Tribes will derive from the allocations. The allocations will help further support the Tribes' business plans and will provide employment opportunity to Tribal members.

Response: Western appreciates the support for allocations to Native American entities.

Comment: Western received several comments regarding the large positive economic impact to rural communities and the potential to finance infrastructure improvements with the electric service cost savings that will be realized as a result of the proposed allocations.

Response: Western appreciates the support for widespread use of the P-DP resource including allocations to rural communities.

Comment: Western received several comments expressing appreciation for allocations to municipal utilities other than electrical utilities, and noting the positive impact that the allocations will have on municipal utility rates.

Response: Western appreciates the support for widespread use of the P-DP resource including allocations to municipal utilities.

Comment: Several comments expressed that data provided by applicants in support of their allocation is proprietary and Western should not make the data available to the public.

Response: Western does not intend to distribute or make public the proprietary data submitted by applicants in support of their applications for a P-DP power allocation.

Comment: The Naval Facilities Engineering Command, Southwest (NAVFAC SW), as the contracting agency for the Navy and Marine Corps bases spread across the Southern California Edison (SCE) and the San Diego Gas & Electric (SDG&E) service territories in California, expressed appreciation for the 2 MW proposed allocation, which will allow for a significant savings to the military and the taxpayers. NAVFAC SW commented that the 2 MW P–DP allocation should be distributed equally among the 11 Marine Corps and Naval facilities that were included in the NAVFAC SW application to more widely disseminate the use of the Federal power allocation.

Response: Western agrees that distribution of the NAVFAC SW allocation among all the NAVFAC SW facilities included in the application would further promote the widespread

use of Federal resources. NAVFAC SW, as the sole contracting agent and allottee, may determine the specific distribution among the NAVFAC SW facilities in the P–DP marketing area provided Western is able to schedule power deliveries in 1 MW or greater quantities and Western is able to send a single billing statement to NAVFAC SW. This change is noted in the final allocation table.

Comment: Several comments expressed support for the process employed by Western to allocate the Parker-Davis Project resource pool. The procedure set forth in the **Federal Register** on July 17, 2006, (71 FR 40503) to allocate Parker-Davis power was well reasoned, giving consideration for Indian irrigation pumping on certain Indian lands adjacent to the Colorado River in the lower basin, widespread use of the Federal resource, magnitude of the benefits, and load. Because proper

procedures were followed and a logical rationale for the Parker-Davis allocation has been presented, the comments expressed support for the proposed allocations and requested that the allocations should be finalized as proposed.

Response: Western appreciates the support for the proposed allocations. The Final Power Allocation of the Parker-Davis Project Resource Pool is presented below.

Final Power Allocation

The Resource Pool Final Power Allocation is made in accordance with the Final Allocation Procedures. All allocations are subject to the execution of a contract in accordance with the General Contract Principles contained in the Final Allocation Procedures.

The Resource Pool Final Power Allocation is shown in the table below:

FINAL ALLOCATION CAPACITY IN MEGAWATTS (MW)

Allottee	Summer			Winter		
	Non-withdrawable FES allocation (MW)	Withdrawable FES allocation (MW)	Total FES allocation (MW)	Non-withdrawable FES allocation (MW)	Withdrawable FES allocation (MW)	Total FES allocation (MW)
Aqua Caliente Band of Cahuilla Indians	1.000	0.000	1.000	1.000	0.000	1.000
Aha Macav Power Service ¹	2.000	0.000	2.000	0.000	0.000	0.000
Corona, CA, City of	2.000	0.000	2.000	1.000	0.000	1.000
Eastern Arizona Preference Pooling Association ²	1.000	0.000	1.000	1.000	0.000	1.000
Town of Gilbert, AZ Utility Department	1.000	0.000	1.000	1.000	0.000	1.000
Hohokam Irrigation & Drainage District	1.000	0.000	1.000	1.000	0.000	1.000
Naval Facilities Engineering Command Southwest ³	1.131	0.869	2.000	1.381	0.619	2.000
Pechanga Band of Luiseño Mission Indians	1.000	0.000	1.000	1.000	0.000	1.000
San Luis Rey River Indian Water Authority ⁴	2.000	0.000	2.000	1.000	0.000	1.000
Town of Marana, AZ Water Department	1.000	0.000	1.000	1.000	0.000	1.000
Viejas Band of Kumeyaay Indians	1.000	0.000	1.000	1.000	0.000	1.000
Williams, AZ, City of	1.000	0.000	1.000	1.000	0.000	1.000
City of Yuma, AZ Public Works Department	1.000	0.000	1.000	1.000	0.000	1.000
Total Allocations	16.131	0.869	17.000	12.381	0.619	13.000

¹ Addition to existing post-2008 allocation to serve Indian irrigation pumping load of the Fort Mohave Indian Tribe.

² Allocation to aggregated group consisting of the utility functions of Town of Eagar, AZ, City of St. Johns, AZ, Town of Springerville, AZ & Village of Reserve, NM. The Town of Pinetop-Lakeside, AZ is excluded from the allocation.

³ Allocation to Naval Facilities Engineering Command Southwest as the contracting agency for California Marine Corps & Naval facilities included in the P–DP marketing area.

⁴ Allocation to aggregated group consisting of San Luis Rey River Indian Water Authority, Vista Irrigation District and the City of Escondido, CA Utility Division.

The Resource Pool Final Power Allocation listed in the table above is based on the P–DP marketable resource available at this time. Firm electric service contracts will be offered to the customers listed in the table. The contracts offered will incorporate the general contract principles listed in the Final Allocation Procedures. If the P–DP marketable resource is adjusted in the future, P–DP power allocations may be adjusted accordingly.

**Regulatory Procedure Requirements
Regulatory Flexibility Analysis**

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is

a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

Western completed an environmental impact statement on EPAMP, under the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in the **Federal Register** on October 12, 1995 (60 FR 53181). Western’s NEPA review assured all environmental effects related to these actions have been analyzed.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: November 20, 2006.

Michael S. HacsKaylo,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-8250-5]

Recent Posting to the Applicability Determination Index (ADI) Database System of Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made under the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); and the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete

document posted on the Applicability Determination Index (ADI) database system is available on the Internet through the Office of Enforcement and Compliance Assurance (OECA) Web site at: <http://www.epa.gov/compliance/monitoring/programs/caa/adi.html>. The document may be located by date, author, subpart, or subject search. For questions about the ADI or this notice, contact Maria Malave at EPA by phone at: (202) 564-7027, or by e-mail at: malave.maria@epa.gov. For technical questions about the individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:**Background**

The General Provisions to the NSPS in 40 CFR part 60 and the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are broadly termed applicability determinations. See 40 CFR 60.5 and 61.06. Although the 40 CFR part 63 NESHAP and section 111(d) of the Clean Air Act (CAA) regulations contain no specific regulatory provision that sources may request applicability determinations, EPA does respond to written inquiries regarding applicability for the 40 CFR part 63 and section 111(d) of the CAA programs. The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping which is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). EPA's written responses to these inquiries are broadly termed alternative monitoring decisions. Furthermore, EPA responds to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for

example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation. EPA's written responses to these inquiries are broadly termed regulatory interpretations.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the Applicability Determination Index (ADI) on a quarterly basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations, contained in 40 CFR part 82. The ADI is an electronic index on the Internet with over one thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by date, office of issuance, subpart, citation, control number or by string word searches.

Today's notice comprises a summary of 63 such documents added to the ADI on November 10, 2006. The subject, author, recipient, date and header of each letter and memorandum are listed in this notice, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI through the OECA Web site at: <http://www.epa.gov/compliance/monitoring/programs/caa/adi.html>.

The following table identifies the database control number for each document posted on the ADI database system on November 10, 2006; the applicable category; the subpart(s) of 40 CFR part 60, 61, or 63 (as applicable) covered by the document; and the title of the document, which provides a brief description of the subject matter. We have also included an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the full text of the documents.

Control	Category	Subpart	Title
0600001	NSPS	Dc	Alternative Fuel Monitoring.
0600002	NSPS	BB	Exemption from TRS Standard for Brown Stock Washer.
0600003	NSPS	BB	Alternative Monitoring for Scrubber.
0600004	NSPS	Db, Dc	Fuel Supplier Certification Statements.
0600006	NSPS	J	Alternative Monitoring Plan for a Catalytic Cracking Unit.
0600007	NSPS	J	Alternative Monitoring Plan for a Flare.
0600008	NSPS	AAa	Alterations to an Electric Arc Furnace.
0600082	NSPS	A, J	Alternative Monitoring Plan for Hydrogen Production Facility.
M060001	MACT	MMM	Compliance Test Waiver Request.
M060002	MACT	MMMM	Post Vulcanized Rubber-to-Metal Parts Bonding.