



**AUGUSTINE BAND OF CAHUILLA INDIANS**  
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 Tribal Chairperson: MaryAnn Green

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*By first class mail and electronic mail to Post 2017BCP@wapa.gov*

Mr. Darrick Moe  
 Western Area Power Administration  
 Desert Southwest Regional Manager  
 P.O. Box 6457  
 Phoenix, AZ 85005-6457

*n/a Smey*

**RE: Comments of the Augustine Band of Cahuilla Indians Regarding the Boulder Canyon Project – Post 2017 Application of the Energy Planning and Management Program Power Marketing Initiative & Federal Register Notice of November 20, 2009.**

Dear Mr. Moe:

The Augustine Band of Cahuilla Indians (the “Augustine Band”), a federally recognized Native American government, provides the following comments in response to the Western Area Power Administration’s (“Western”) call for the same in its Federal Register Notices of April 27, 2011 and May 24, 2011 regarding the Boulder Canyon Project (“Boulder Canyon Project” or “BCP”).

We address Western’s expressly noted areas for comment in turn below and supplemental comments thereafter.

**1. Application of the Power Marketing Initiative to the Boulder Canyon Project and Total Quantity of Power to be Marketed**

The Augustine Band supports the application of Western’s Power Marketing Initiative (“PMI”) to the allocation of electrical energy produced by the Boulder Canyon Project. Western has applied this protocol to all other federal power projects within Western’s administrative purview since the implementation of the PMI in 1995. We also agree with the intent behind the PMI to support equitable distribution of Boulder Canyon Project power as a public resource and to confirm that, as such, it must be redefined through periodic resource reallocation as communities within the service area change over time.

Current customers have even noted in their own public comments to this process the critical nature of community-responsive resource planning which further accentuates the

importance of the application of the PMI to the planned 2017 reallocation of energy from BCP.

## 2. Quantity of Resources Extended to Existing Customers

The Augustine Band is not persuaded that the proposed BCP energy and capacity allocations currently being considered by Western meet the equitable redistribution mandate of the PMI.

We view the current BCP allocation proposal put forth by Western as being too protective of the interests of currently contracted customers as against new interests, like our Tribe and the more than fifty (50) currently estimated federally-recognized tribes in the Project service area who have never received any BCP output.

BCP's existing contracted customers have had the benefit of preference power virtually since the closing of Hoover Dam, and while we understand that those customers have partially shared in the costs of energy production from BCP, their accrued benefits have far exceeded their costs.

The Augustine Band believes that the application of the PMI can be accomplished consistent with providing to "new" users, like the tribes, a marginally greater allocation of BCP energy while still assuring the provision of future resource planning stability to existing customers. The application of the PMI can achieve this assurance by increasing the allocation available to the tribes and other new users to 10% while renewing a 90% share of the current allocations otherwise expiring in September 2017.

The disparately impacted economic interests of new tribal customers, many or all of which represent increasing shares of total economic activity in their respective regions, should be addressed by allowing the tribes appropriate access to BCP power, reversing the previous complete preclusion from receipt of any BCP power.

## 3. Size of Proposed Resource Pool for New Customers

As mentioned above, the quantity of the resources extended to new tribal customers should equal 10% of the total Project energy and capacity output. Such a total is on par with the share offered new tribal customers in other Western projects for which no tribes had previously received any allocations and is necessary to address proportionately larger economic impacts of current regional economic conditions on tribes in the service area in comparison to other Western preference customers so located. This share is also consistent with Western's practices in allocating a portion of output from other projects, as was done initially for Pick-Sloan, based at least in part on projected tribal needs.

## 4. Excess Energy Provisions

New tribal customers should also receive an option to purchase any excess energy available during any calendar year in proportion to their share of power or at least on the same proportionate basis as that made available to existing customers. No first level priority to existing customers is justifiable under any economic or other analysis and would only create avoidable prejudice to new Project customers.

5. Additional Comments Regarding Western Authority to Allocate to Tribes

a. Consistent with current U.S. Department of Energy tribal policy, Western must maintain a government-government relationship with tribes. On this basis alone Western has authority to contract directly with tribes.

Moreover, Western has contracted with more than 50 tribes in different projects it has reallocated in the last 10 years. As such, the agency's authority to do so is well established and consistent with general project management parameters and no legal basis exists on which to find that BCP is somehow excepted or legally precluded from doing so.

b. The Augustine Band supports a timely reallocation process by Western, noting that time extensions have already been made at two points prior in the process. While we understand that Congressional action on this matter may be pending, proposed legislation not enacted should not control Western's management of its own procedural responsibilities for reallocation under existing law.

The Augustine Band appreciates the opportunity to submit these comments in support of its desire to obtain hydroelectric power generated through the Boulder Canyon Project.

Sincerely,



Mary Ann Green  
Tribal Chairperson

