



Salt River
PIMA-MARICOPA INDIAN COMMUNITY

10005 E. OSBORN RD. / SCOTTSDALE, ARIZONA 85256-4019 / PHONE (480) 362-7400

January 28, 2010

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

**Re: Notice of Proposal: Boulder Canyon Project – 74 Federal Registrar 60257
(November 20, 2009)**

Dear Mr. Moe:

On behalf of the Salt River Pima-Maricopa Indian Community ("Community"), I'm writing to you in response to the recently published Notice of Proposal issued by Western Area Power Administration ("WAPA") of the Department of Energy ("DoE") - 74 Federal Register 60256 (November 20, 2009) ("Notice").

It is the Community's understanding that the remarketing currently underway for the Boulder Canyon Project ("BCP") will provide a significant opportunity for Indian tribes within the applicable marketing area to secure, for the first time, our first contract for WAPA power, or for tribes such as ours, to expand our access to power managed by WAPA.

The Community is pleased that WAPA's Notice of Proposal re-affirms that the Power Marketing Initiative ("PMI") would enable tribal governments to receive a power allocation even if they do not have utility status.

The Notice also makes an open-ended request for comments on the role of the Arizona Power Authority ("APA") in the allocation process. The APA, as you know, is a government agency of the State of Arizona. For decades it has worked with, and has been influenced by, publicly-owned and privately-owned utilities in making Hoover Power Plant hydropower available to those utilities in the major load centers in Arizona. In contrast, the APA has no similar relationship with any of Arizona's Indian tribes. Our concern, therefore, is that Arizona's tribes would not receive a fair allocation from APA through the contract process.

Arizona's tribes have worked successfully with WAPA in the past regarding Parker-Davis allocations. There is an historical relationship between WAPA and Arizona tribes. For a variety of reasons, our Community believes it is in the best interests of tribes and the United States for Arizona to contract directly with WAPA for BCP power, instead of

forcing tribes to approach APA, a State agency heavily subject to the influence of Arizona non-Indian utilities.

On behalf of the Community, please also keep in mind the unique direct government-to-government between the federal government and Indian tribes. This policy was further strengthened and expanded by the Obama Administration as reflected in the November 5, 2009 Memorandum to Heads of Executive Departments and Agencies which is directed at implementing Executive Order 13175 by "*strengthening* the government-to-government relationship between the United States and Indian tribes."

Furthermore, there are superseding laws, such as the 1992 Energy Act that reinforce tribal jurisdiction over energy development and that direct the DoE to engage directly with Indian tribes:

In implementing the provisions of this Act [Public law 102-486], the Secretary of Energy shall involve and consult with Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government-to Government relationships between the Indian tribes and the Federal Government 25U.S.C. S3502.

Finally, with regards to the termination agreement, there must be a set aside for energy capabilities in the best interest of Indian tribes. In summary, there must be a provision to allow tribal governments, such as ours, to deal directly with the federal agency without restricting Indian tribal governments to go through third parties such as utility companies.

On behalf of the Community, I appreciate the opportunity to provide comments on this very important matter and I look forward to discussing this issue in the very near future.

Regards,



Diane Enos
President
Salt River Pima-Maricopa Indian Community