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COLORADO RIVER COMMISSION
 OF NEVADA

November 22, 2002

BY FACSIMILE; HARD COPY TO FOLLOW

Mr. J. Tyler Carlson
 Regional Manager
 Western Area Power Administration
 Desert Southwest Region
 P.O. Box 6457
 Phoenix, Arizona 85005-6457

Re: Supplemental Comments on the Applicability of the Power Marketing Initiative to the Parker-Davis Project

Dear Tyler:

Please accept the following comments as supplemental to those submitted in our letter to you dated November 4, 2002. We believe there is good cause for you to accept them out of time because some of the written comments made by others, which we have seen for the first time only recently, contain incorrect, misleading and unsupported statements about the CRC and its allocation of Parker-Davis power that cannot, in fairness and in the public interest, be left unanswered.

It is apparent that erroneous information about CRC's sale of Parker-Davis Project (P-DP) preference power to nonpreference customers has been given to various commenters outside the state of Nevada. In its most specific expression, the claim, as best we can understand it, is that CRC is "wholesaling" preference power to nonpreference entities that are, in turn, reselling the power. Such a claim is groundless. As explained in our comments of November 4, 2002, CRC resells its Parker-Davis power only to Overton Power District No 5, an electric improvement district; Valley Electric Association, an electric cooperative nonprofit membership corporation; and Basic Water Company and five manufacturing companies, *end-users* that comprise the Basic Industrial Complex near Henderson, Nevada. (It should be noted that CRC does not sell Parker-Davis power to Nevada Power Company as one commenter at the Ontario public comment forum erroneously seemed to think.) Both Overton and Valley themselves would qualify for a preference under federal reclamation law and Western policies. In fact, Western's previous contract with CRC for Parker-Davis power, effective for 16 years between 1972 and 1988, contained a provision entitled "Alternative Delivery to Other Preference Customers" in which Western promised to contract directly with Overton and Valley if CRC did not supply them with Parker-Davis power "on terms and conditions which are *without restriction for ultimate use as to purposes or geographical areas.*" (Emphasis added.) Recognizing that the CRC would continue to supply Overton and Valley

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with Parker-Davis power post-1988, Western felt no need to repeat that provision in its present P-DP contract with CRC, but did include a provision (subsection 9.2) imposing certain reporting requirements on CRC's "resale customers."

As to CRC's retail industrial customers, it apparently is not well understood by the commenters that these customers actually are end users of the Parker-Davis power they receive from CRC. In fact, their contracts with CRC expressly prohibit any resale of the power by them, and CRC monitors their activities to ensure that this prohibition is being fully honored. It was interesting to see the June 3, 1948, letter from the Commissioner of Reclamation to the Secretary of the Interior, found in the Duncan-Allen Report and attached to IID's comments, in which the commissioner, with no apparent concern regarding a possible preference violation, expresses his understanding that Nevada's share of Davis power would eventually be used by the industries at the Basic Magnesium Plant. And so it has—continuously—since the early 1950s, and CRC's sales to these customers have been and continue to be on a retail basis, not on a wholesale basis as erroneously asserted by one commenter.

CRC has served Overton, Valley and its retail customers at the Basic Industrial Complex with P-DP power for many decades now, consistent with preference law and with Western's knowledge. We cannot overemphasize what we said in our original written comments: CRC's service of P-DP power to these customers spreads the use of that power widely in the rural areas of southern Nevada as well as in an important sector of Nevada's economy, where it is as vitally needed as anywhere else in Western's P-DP marketing area.

A number of commenters have called for a set-aside pool in a range approximating 29 to 36 MW. This size is hugely larger than the "modest" size contemplated by the PMI and the amount Western proposed for this project and finally determined for the Salt Lake City Area Integrated Projects and the other projects to which the PMI was made to apply. No adequate analysis is offered to support a set-aside resource pool of such an unprecedented size. Moreover, some commenters would have Western take this set-aside from only the "larger" customers—at least one commenter targeting those with an entitlement of 40 MW or more which, in effect, names only the State of Nevada, or targeting only nonwithdrawable power, which constitutes the larger part of Nevada's entitlement. Parker-Davis power is not an exclusively Arizona resource. There are three states in Western's marketing area for this power and, as it is, Nevada gets the smallest percentage of the marketable resource: on average 25.28 percent to California's 27.24 percent and Arizona's 47.48 percent, not including the one-half of Parker's output to southern California's Metropolitan Water District. The need for this power in Nevada is just as acute as it may be elsewhere.

Most commenters expressed concern that the present process not harm existing customers. We agree. CRC's Parker-Davis customers are relatively small entities themselves, and are easily hurt by reductions to their hydropower resources—all the more so for those who have already suffered from reductions in their resources from the Salt Lake City Area Integrated Projects. CRC has indicated that the benefit of Parker-Davis power to users in Nevada amounts to almost \$11

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million per year when the price of this federal power is compared with the cost of replacement power on the electric energy market. The reduction of firm Parker-Davis allocations to existing customers, even by the amount proposed by Western—let alone the substantially larger amounts proposed by some commenters—could very well endanger the well-being of those customers. As pointed out earlier, they will now be required to replace economical P-DP resources with market resources, which in the future may be even higher-priced than present opportunities. This potential harm needs to be minimized, not exacerbated by proposals that would place the burden of reductions solely on one state or one customer. A six percent reduction across the board fairly imposes the burden on everyone, but the harm is equitably spread in proportion to the size of their entitlements.

Several commenters have opposed application of the PMI to the P-DP and called for a complete reallocation of the resource "conditioned" on their receiving a renewal of their allocations. We fail to see how Western can fairly conduct a complete reallocation outside the PMI and still guarantee a reallocation to anyone. Also, some commenters have based their opposition to the PMI on changing conditions and requirements in the power industry and they recommend that Western evaluate the Parker-Davis resource in relation to those changes. We would urge Western to review its comprehensive analysis of the impact of electric utility industry restructuring on Western's power allocation policies published in the *Federal Register* on June 25, 1999, at 64 FR 34433. Contemporaneously, Western published the final marketing criteria for Salt Lake City Area Integrated Projects, which applied the PMI to extend existing firm electric contract commitments. Although these impacts are or likely will be evaluated periodically, it appears to us that current conditions or requirements do not require another prolonged study that would delay the progress of the P-DP PMI process. It is essential that CRC and its customers be able to plan their power resources as early as possible.

Sincerely,



George M. Caan
Executive Director

Xc: CRC Commissioners
CRC P-DP Power Customers

GMC/GAT.