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BOULDER CANYON PROJECT

4

POST-2017 MARKETING

5

PROPOSED ALLOCATIONS

6

7

PUBLIC INFORMATION FORUM

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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Tempe, Arizona
August 28, 2014

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TRANSCRIBED BY: CHRISTINE JOHNSON, RPR, RMR
Certified Reporter #50383

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PREPARED FOR:

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Western Area Power Administration

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1 Be it remembered that heretofore on August 28,
2 2014, commencing at 10:00 a.m., at the Doubletree Hotel,
3 Tempe, Arizona, the following proceedings were had, to

wit:

4

5

6 OPENING REMARKS Page

7 BY MR. DOUG HARNESS 3

8 PRESENTATION

9 BY MR. MIKE SIMONTON 5

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11 COMMENTS BY:

12 DULANEY, Alan 17, 34

13 LYNCH, Robert 20, 27, 38

14 FITZGERALD, David 23, 32

15 JOHANSON, Hakon 25

16 GARDNER, Lee 28

17 DELANEY, Dennis 35, 39

18 KAI, John 40

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PROCEEDINGS

1
2
3 MR. HARNESS: Well, good morning, everybody, and
4 I'm not -- I'm going to try to get away without using the
5 microphone. Can everybody hear me, okay? Great. Thanks.

6 7, again, good morning and welcome to today's
7 Public Information Forum. My name the Doug Harness. I'm

an

8 attorney with the Western Area Power Administration and

our

9 Office of General Counsel in Lakewood, Colorado, and I'm

10 here today on behalf of Western Area Power
Administration's

11 Desert Southwest Region.

12 This Public Information Forum has been scheduled
13 for Western to present information on and to allow you to
14 ask questions about the power allocations proposed by
15 Western for the Boulder Canyon Project Post-2017 Resource
16 Pool, which was published in the Federal Register on
17 August 8th, 2014.

18 The Resource Pool was created in accordance with
19 the Hoover Power Allocation Act of 2011 and Western's
20 Conformed Power Marketing Criteria published in the
21 Register on June 14th, 2012.

Federal

22 The Resource Pool consists of 11,510 kilowatts
23 contingent capacity and associated firm energy for
24 allocation to new allottees in the state of California and

of

firm 25 69,170 kilowatts of contingent capacity and associated

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Boulder 1 energy for allocation to new allottees in the entire
2 City or Boulder Canyon marketing area.

3 Western will make final allocations of the
4 Resource Pool after the close of the comment period for
this 5 public process and consideration of all timely submitted
6 comments. Definitely will publish the final allocations
in 7 the Federal Register.

8 Entities interested in commenting on the
proposed 9 allocations may submit written comments to Mr. Ronald E.
10 Moulton, Acting Regional Manager, Desert Southwest
Customer 11 Service Region, Western Area Power Administration, P.O.
Box 12 6457, Phoenix, Arizona 85005-6457.

13 You may also fax comments to Western at area
code 14 (602) 605-2490 or e-mail them to post2017BCP@wapa.gov, and
15 all this information should be in the packet there
16 somewhere.

17 Western will accept comments that are received
on 18 or before September 19th, 2014. Western reserves the
right 19 not to consider comments received after this date.

20 In addition to the Public Information Forum,
which 21 this is the third -- we had one two days ago in Las Vegas

16th,

22 and one yesterday in Ontario -- Western will hold three
23 Public Comment Forums. These forums will be September
24 in Las Vegas, September 17th in Ontario and September 18th
25 here in Tempe. Comments made at those Forums will be

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1 reported by a court reporter and will become part of the
2 official record for this public process.

3 A verbatim transcript of today's Forum is being
4 prepared by our court reporter. Everything said while
we're
5 in session, together with all exhibits, will be part of
the
6 official record. Copies of today's transcript will be
7 available to anyone who would like a copy upon payment of
8 the required fee to the court reporter. The court
9 reporter's name, address and telephone number are
available
10 upon request.

11 Copies of the transcript and the exhibits will
12 also be available for review in Western's Desert Southwest
13 Customer Service Regional Office in Phoenix, Arizona and
do
14 you post them on our website?

15 MR. SIMONTON: The information -- the slides or
16 the --

17 MR. HARNESS: The transcripts?

18 MR. SIMONTON: Yes, they get posted.

19 MR. HARNESS: They will be posted on Western's
20 website. So with those preliminaries aside, I'll turn the
21 presentation over to our Project Manager for this effort,
22 Mike Simonton.

23 MR. SIMONTON: Good morning, all. I'll use the
24 microphone because I'm required. My name is Mike
Simonton.

25 I'm Western's Project Manager for the Boulder Canyon

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1 Marketing effort and I'll be walking us through the
2 information slides today.

3 The Forum topics or material we'll be covering
4 will be a marketing process update, some of the more
5 significant milestones today and where we're heading.

We'll

6 talk a bit about the Boulder Canyon Project Post-2017
7 background, which includes the Hoover Power Allocation Act
8 of 2011, which I'll refer to as HPAA; Western's

conformance

9 to HPAA and some additional marketing criteria.

10 We'll provide an overview of the applications
11 received, as well as an overview and summary of the

proposed

12 allocations that were published in the Federal Register on
13 August 8th, 2014. We'll also hit on some next steps and
14 provide our contact information.

15 On December 30th, 2013, Western published in the
16 Federal Register a final marketing criteria and made a

call

17 for applications from those parties interested in

receiving

18 an allocation -- Western allocation of the Schedule D
19 Resource Pool.

20 Applications were due March 31st, 2014, which

used

21 Western's prescribed application form, which requested
22 applicants to provide their information, including service
23 area, requested allocation quantities, the applicant's

24 loads, their power suppliers and transmission plans.

25 As mentioned, on August 8th, we proposed

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1 allocations that we're discussing today. And this week
2 we're conducting Information Forums as Doug described,
which
3 is an opportunity for two-way public dialogue with Western
4 and interested parties.

5 As mentioned, in September, from the 16th to the
6 18th, we will be holding Public Comment Forums, which will
7 be an opportunity for those interested to provide comments
8 to Western, either orally or in writing. The comment due
9 date is September 19th and we urge all those that are
10 interested to provide comments to Western on those
proposed
11 allocations.

12 We did send a letter out to the proposed
allottees
13 requesting them to substantiate the loads that they
14 submitted in their applications. The load substantiation
15 documentation is due October 3rd, 2014.

16 The substantiation includes, but is not limited
17 to, meter verification reports, historical billing
reports,
18 host utility reports or other records that may be
sufficient
19 in substantiating their loads.

20 An overview of the HPAA. HPAA has prescribed
21 several of the larger or more significant impacting
elements
22 of the marketing effort; predominantly defines Schedules
A,

original

23 B and C. Schedule A is the capacity energy to the
24 contractors defined back in the '30s. Schedule B is the
25 allocation of uprating capacity energy that was achieved

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is 1 through the uprating process in the '80s, and Schedule C
2 excess energy.

3 HPAAs also established that a Schedule D Resource
4 Pool, which is Western's allocating its portions of that
5 prescribed pool in this process. HPAAs also prescribed
6 portions of that Schedule D Pool to be allocated by the
7 Arizona Power Authority and the Colorado River Commission
of 8 Nevada in their prospective states.

9 On this Schedule D Resource Pool, Western is to
10 allocate 69,170 kilowatts of contingent capacity to new
11 allottees in the Boulder Canyon Project marketing area and
12 11.5 -- or, excuse me, 11,510 kilowatts of contingent
13 capacity to new allottees in Southern California.

14 Western allocations to non-tribes in Arizona and
15 Nevada shall be offered through the APA and CRC. It also
16 prescribed that Western would allocate and contract
directly 17 with Native Americans tribes between the tribal entity and
18 Western. HPAAs also required that Western would prescribe
19 or, I'm sorry, conform its criteria to the provisions of
20 HPAAs.

21 Western did conform its 1984 criteria to the
22 provisions of HPAAs through publishing a Federal Register
on 23 June 14th, 2012. As mentioned, HPAAs prescribed quite a
few 24 significant elements that Western would -- would adopt in

25 the marketing of Hoover for Post-2017. This Federal

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1 Register Notice did administratively facilitate Western's
2 actions in following some of those duties. It also
3 established some fundamental criteria that's impacting to
4 the proposed allocations that we're discussing today, such
5 as eligibility, which defined that qualified applicants
6 be eligible under Section 5 of the Boulder Canyon Project
7 Act or be Federally recognized Indian tribes.

must

8 All qualified applicants must be located in the
9 Boulder Canyon Project marketing area. It also prescribed
10 that, as mentioned, that allocations to non-tribes in
11 Arizona and Nevada would be offered through APA and CRC.

12 Western did note in this Federal Register Notice
13 that in order to navigate competing applications, it would
14 prescribe additional marketing criteria pursuant to a
15 process.

public

16 Through a public process, Western did define
17 additional marketing criteria, which was announced in the
18 Federal Register Notice published December 30th, 2013.

Just

19 to be clear, these provisions or this criteria is only
20 applicable to the portions of Schedule D that Western's
21 allocating, 69 megawatts and 11.5 megawatts. These
22 provisions do not have a bearing or impact on APA or CRC's
23 allocation of its portions of A, B or D.

that

24 So the key elements of the marketing criteria

25 Western prescribed is that we would provide a first

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of
1 consideration for Native American tribes up to 25 percent
2 their peak load. We would also consider the amount of the
3 applicant's load already served by existing Federal power
4 allocations, either -- whether it be direct allocation
from
5 Western to the applicant or indirectly from maybe the
6 applicant's host utility. The remainder of the resource
7 would be allocated to non-profit eligible applicants in
8 proportion to their peak loads.

9 All allocations will be based on historical
loads
10 consisting of loads in the calendar year 2011, 2012 or
2013
11 as selected by the applicant. All allocations would be of
12 minimum allocation of 100 kilowatts and a combined total
13 maximum allocation of 3,000 kilowatts.

14 In reviewing the applications received as listed
15 in this table here, we had 107 applicants apply and we
also
16 distributed or depicted the loads of those applicants
17 summarized by state.

18 A graphical depiction of that table is presented
19 here with a significant portion of applicants and loads
20 coming from Arizona and California and a bit of a more
21 modest percentage coming from Nevada.

22 When considering the applications and applying
our
23 criteria, we made a few considerations in doing so in

24 navigating those applications and applying the criteria,
25 some of which would include the direct and indirect
benefits

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1 of existing Federal power allocations were determined for
2 each applicant.

3 Again, as I mentioned, the benefits of firm
4 electric service may be from a direct allocation from
5 Western to the applicant or it may be that Western's
6 allocated to an entity that serves the applicant and the
7 firm electric service that Western allocated to the host
8 utility in turn benefits the applicant themselves.

9 In this case, allocations held by the host
10 utilities were assuming the benefit as customers equally.

I

11 think we had roughly 36 host utilities represented serving
12 107 applicants. A host utility and load information was
13 acquired from the Energy Information Administration data
14 if that wasn't available, we used Integrated Resource Plan
15 data as available.

and

16 We did have most -- many -- many applicants that
17 did have load served by multiple utilities. In those
18 we did have to take the amount of firm electric service
19 benefit pro rata per each host utility to calculate that
20 particular applicant's weighted average of firm electric
21 service benefit that they may have enjoyed or received.

cases,

utility

22 We did have several cases in which a host
23 and one of its customers had applied in which the host
24 utility's load did assume the other applicant's load. In

25 times of this, we had to reduce the host utility's load in

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1 order to ensure that we were not counting the -- or
2 considering the same load twice in two different
3 applications.

4 To discuss how we distributed the 69 megawatts
in
5 the marketing area, again, based on the criteria, we made
a
6 first pass at providing 25 percent or targeting 25 percent
7 of Native Americans tribes' peak load. This first pass
8 resulted in approximately -- or exactly 28,970 kilowatts
of
9 contingent capacity being proposed to be allocated to
10 tribes.

11 Now, throughout this presentation, I'll probably
12 say "proposed" many, many times, but just to be clear,
these
13 are proposals and subject to change, so as Doug mentioned,
14 based on comments we receive and load substantiation,
these
15 proposals are subject to change.

16 The remaining 40,200 kilowatts of contingent
17 capacity was distributed to other allottees by targeting
all
18 applicants' peak load served by Federal Power to
19 approximately 6.8 percent. So when considering that we
had
20 40,200 kilowatts of contingent capacity left to be
21 distributed, considering how much load per applicant was
22 applied was -- is considered and how much firm electric
23 service was serving each of those applicant's loads and

24 then, of course, the 100-kilowatt minimum, 3,000-kilowatt
25 maximum. The 6.8 percent target was what was established

or

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1 needed in order to distribute the remaining 40,200
kilowatts
2 of contingent capacity.

3 So essentially, those who had less than
4 6.8 percent of their peak load already served by firm
5 electric service, we targeted an allocation of Hoover to
6 increase their federal service to that 6.8 percent target,
7 again, when considering the minimum and maximum
provisions.

8 Applicants that already had existing loads
served
9 in excess of 6.8 percent by firm electric service, were
not
10 targeted or did not provide -- we did not provide a
proposed
11 allocation for those types of entities.

12 We did a similar identical process in
distributing
13 the 11.5 megawatts in Southern California. In doing so,
we
14 did consider the proposed allocations of the 69 megawatts
as
15 an existing firm electric service resource.

16 When looking at Native American tribes for the
17 first run of 25 percent, it was noted that all Southern
18 California tribal entities were either at 25 percent of
19 Federal power service or at the 3,000-kilowatt maximum
20 allocation threshold or would not still substantiate or
21 exceed the 100-kilowatt minimum allocation threshold.

22 Due to these factors, the first consideration
did

23 not yield additional allocations to tribal entities in
24 Southern California, therefore, all the remaining
25 11,500 kilowatts of capacity in Southern California was

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a 1 distributed by targeting Southern California applicants to
2 peak load of Federal power service of approximately
3 20.8 percent. So, again, the same as we did with the 69
4 megawatts.

5 In order to distribute the 11.5 megawatts in
6 Southern California, it considered -- it established that
7 target percent, considered all the peak loads that were
8 applied for, all the firm electric service that was
meeting 9 those loads and the minimum and maximum allocation
10 thresholds. 20.8 percent is what we targeted in order to
11 yield a distribution of 11,500 kilowatts to those
12 applicants.

13 And, again, applicants with less than 20.8 of
14 their peak load served by Federal power were targeted to
15 receive a proposed allocation of Boulder Canyon Project to
16 achieve that 20.8 percent threshold. Applicants with more
17 than 20.8 percent of their peak load served by Federal
18 power, were not provided a proposed allocation.

19 This table depicts the proposed allocations
20 summarized per state, whether it be from a tribal entity
or 21 a non-tribe. I do have a footnote there regarding 5
22 allottees. When looking at the California allocations,
23 there were 20 Southern California allocations with
24 distribution of the 69 megawatts. There were six proposed

Southern 25 allocations within the distribution of the 11.5 in

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1 California. It's not an absolute sum of those two;
however,
2 come to California's total allocation count of 21. The
3 reason for that is that 5 of the 20 were getting
additional
4 kilowatts or additional distributions of the 11.5, so
there
5 were not additional allottees at that point.

6 This is a graphical depiction of that data and,
7 again, it does sort of trend with the loads that were --
8 that were applied for and the number of applications.
9 Considering that we were -- a primary element of the
10 criteria is to be basically pro rata on the load, this is
11 somewhat to be expected.

12 This next table depicts the allocations per
entity
13 type or customer type. One of the fundamental goals of
our
14 market criteria was to allocate on most widespread use
15 principles so then create a diversity in the different
16 exposed or successful applicants is manifested here. We
had
17 quite a few diverse types of entities that are
represented.

18 And, again, a high number of allocations
relative
19 to the amount of power that's available to be distributed.
20 The same footnotes apply for the Southern California
21 applicants.

22 A graphical depiction of that data in percentage

23 format for both the 69 megawatts in the marketing area and
24 11.5 megawatts in Southern California.

25 As we described, we have Public Comment Forums

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1 that are scheduled for September 16th, 17th and 18th. Our
2 comment period did open August 8th with the publication of
3 these proposals and the comment period closes September
4 19th, 2014. So, again, we are urging those that are
5 interested to provide comments to Western.

6 Some of the more significant milestones are
7 depicted here in this time line. Obviously, we're here in
8 the August time period for the proposed allocations. We
9 intend and we hope to have finalized allocations by
December
10 of this year.

11 Shortly thereafter, in early 2015, we will
12 commence contract negotiations with all existing and
13 proposed allottees. We hope that contracts will be
14 finalized by December of 2015.

15 And based on our criteria, we do have a ready,
16 willing and able provision deadline for non-tribes of
17 October 1st, 2016. This would all be in preparation for
18 commencing delivery or initiating service October 1st,
2017.

19 All the information presented here today, our
20 transcripts, Federal Register Notices, things of that
21 nature, anything relative to the project that is
noteworthy
22 potentially is posted to our remarketing website at this
23 address.

24 As Doug described, written comments can be
25 provided to Mr. Ronald Moulton at this address or e-mailed

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as
1 to our post2017BCP e-mail account or faxed to this number
2 provided.

3 At this time, I'd like to open up for any
4 questions. Again, we don't have a wireless mic, so if you
5 do have questions, as Doug described, if you could
possibly
6 stand up, speak clearly and loudly so our court reporter
can
7 hear you and state who you are and who you might be
8 representing.

9 MR. DULANEY: Okay. My name is Alan Dulaney.
I'm
10 with the City of Peoria. Hopefully it's loud enough for
you
11 to hear. I have been told I don't have a soft voice. I'm
12 kind of a neophyte at electrical allocations in that
Peoria
13 does not provide direct electrical service to our
citizens,
14 but we do provide water and sewer service to all of our
15 citizens, and that's what the electricity is for.

16 So my question is this, Mike, being a neophyte
and
17 not understanding the entire background of this, can you
18 explain to me, just so I can tell management, why is it
that
19 California grabbed so much more than the rest of us?
20 There's got to be a reason behind that, and I'm just not
21 clear on the historical background.

HPAA, 22 MR. SIMONTON: 7, based on the provisions of
23 we essentially do have an additional 11.5 megawatts more
to 24 allocate that's been earmarked specifically for Southern
25 California.

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1 I think as we described, HPAA does have
provisions
2 that Arizona Power Authority would be distributing back
3 their portion of 11.5 megawatts of Schedule D within the
4 state of Arizona, as well as CRC would also be
distributing
5 its portion, which is 11.5 megawatts within Southern
Nevada.

6 So when you look at Schedule D in its entirety,
7 which was 104 megawatts, 11.5 was chiseled out to Arizona
8 for APA to distribute, 11.5 was chiseled to Nevada for CRC
9 to distribute. In Southern California, they don't have a
10 state agency that's of like that would do that for their
11 state, so Western's allocating its California's --
Southern
12 California's portion of that piece.

13 MR. DULANEY: So it's lack of a state agency
14 basically?

15 MR. SIMONTON: I just follow what the
legislation
16 tells me, so, yes, it seems like that would be the case.
I
17 didn't grab that legislation, but, yes, I would assume
that
18 based on the lack of state agency that has its duties and
19 roles in that vain, that would be the reason why.

20 MR. DULANEY: Okay. Follow-up, the 20.8 percent
21 that looks like their percentage as opposed to our
22 6.8 percent here, why is that? I don't quite understand
why

23 that would be higher for California. It couldn't have
24 anything to do with lack of state agency.

25 MR. SIMONTON: That's correct. When you look at

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1 the applications that were received per state, again, we
2 distributed the 69 megawatts first and then looked only at
3 the Southern California applications when distributing
that
4 earmarked 11.5 percent for Southern California.

5 So in this case, you had 26 Southern California
6 applicants. Of those, 17 are tribes and as we described,
7 the tribes essentially got up to their 25 percent
threshold
8 or maximum 3,000-kilowatt allocation under the
distribution
9 of the 69. So what is remaining then would be the full
11.5
10 distributed to the, essentially, I believe, nine non-
tribal
11 applicants in Southern California.

12 So I think what you have is a case of 11.5
13 megawatts that needs to be distributed to nine proposed
14 allottees -- or applicants that in order to get that
15 distributed, yielded the 20.8 percent.

16 And in the case of the 69 megawatts, it's much
17 lower because you have a much larger applicant pool
relative
18 to the amount of resources being distributed.

19 MR. DULANEY: Got it. Okay. Thank you.

20 MR. SIMONTON: Now, just to be clear, if that
21 percentage was over 25 percent, my assumption would be
that
22 tribes would achieve additional allocations of the 11.5
23 megawatts. But in this case, those tribes were already at

targeted 24 25 percent or their maximum 3,000 kilowatts and the

25 percentage mathematically was less than 25 percent.

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1 MR. DULANEY: Thank you.

2 MR. SIMONTON: Sure. Bob.

3 MR. LYNCH: Bob Lynch, Robert F. Lynch &
4 Associates. I'm an attorney here in Phoenix. I'm here on
5 behalf of conversations about assumptions you may have
6 about certain applicants that ended up not being true. I
7 presume that the comment deadline of September 19th is the
8 deadline for trying to correct that record to the ratio.

9 I correct in that?

10 MR. SIMONTON: That's correct. If there are
11 assumptions here, I think in one example we -- in the
12 considerations here, that -- that allocations be held by
13 host utilities were assumed to benefit customers equally.
14 If you have an applicant that that maybe doesn't apply or
15 not an accurate assumption, comments -- I'm hoping the
16 comments will be submitted to that effect to help us
17 that that needs to be corrected.

18 MR. LYNCH: But then you have an October
19 for submitting for allottee -- proposed allottees to
20 the corroborating load data. Should others who might wish
21 to still be considered, but are in the "don't get it" side
22 of the ledger at this point also treat that as a deadline
23 and submit the data to you?

24 MR. SIMONTON: If there is an applicant that was
25 not successful in achieving a proposed allocation that

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1 speculates through the load substantiation or other means
2 that they may become a proposed allottee, that may be
3 something they can submit information for.

4 circumstance,

5 identified

6 I don't envision that if we had that
7 that we would not allow them an opportunity to be
8 and provide them a load substantiation due date that would
9 be more reasonable at that time.

10 MR. LYNCH: They're not stuck with the date in
11 your slide show, October 3rd?

12 this

13 MR. SIMONTON: To the best of my knowledge at
14 point, depending on when they would be identified, I would
15 not assume that that date would be strictly applied to
16 those

17 particular applicants, because they were not under the
18 knowledge base that they are a proposed allottee and being
19 asked of -- requiring that date submittal.

20 went

21 were

22 so

23 courtesy

24 A letter that went out to substantiate loads
25 out to the 58 proposed allottees, not the -- those who
26 not asked for -- or not identified as proposed allottees,
27 seems reasonable to me that we would give them the
28 and the time necessary, of course, you know, trying to
29 maintain a timely response to be able to provide that
30 information when they provide it.

23 MR. LYNCH: 7, you've got to fish or cut bait by
24 December. How do you envision --

25 THE COURT REPORTER: Can you speak up a little

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1 bit?

2 MR. SIMONTON: Yeah, we're having a hard time
3 hearing you up here.

4 MR. LYNCH: I'm sorry. If you have some
potential
5 for considering adjustments to who are the allottees and
6 you've got to finish this process by December -- the law
7 says you have to -- how do you envision dealing with that?
8 You've got to come out with a final quarter. You've asked
9 for data from the people on your allottee list by a date
10 certain.

11 How do we make the rest of this work if somebody
12 else is going to be added to the list and you come out
with
13 that say around first week of December? Do you then give
14 them the additional time after that?

15 MR. SIMONTON: I would envision they would need
to
16 be substantiating their load, even if they weren't
17 originally identified as a proposed allottee in enough
time
18 for us to publish the final notice with them inclusive.

19 MR. LYNCH: So as a practical matter, October
3rd
20 is October 3rd?

21 MR. SIMONTON: For those who have been
identified,
22 October 3rd is October 3rd. If we do have an issue we
need

parties 23 to adjust who may be a new proposed allottee, those
you 24 may be given the time necessary to provide that, but as
25 mentioned, it will need to be somewhat of a tight deadline

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1 for Western to be able to consume this process.

2 MR. LYNCH: Thank you.

3 MR. SIMONTON: Absolutely.

4 MR. FITZGERALD: My name is David Fitzgerald and
5 attorney representing the Arizona Electric Power
6 Cooperative. To follow on Bob's point, don't the
marketing
7 criteria specify that if an entity's proposed allocation
is
8 not able to take that allocation, that allocation is then
9 allocated pro rata among the other designated recipients?

10 MR. SIMONTON: That's correct. On this slide
11 here, the October 2016 ready, willing and able provision
is
12 where a non-tribal allottee will need to provide enough
13 information to Western to demonstrate that it's ready,
14 willing and able to receive and distribute power.

15 In the event they are not able to meet that
16 deadline, that resource would then be redistributed to
other
17 Schedule D allottees and. Again, I think in our criteria,
18 we did say that if you had a maximum of 3,000 kilowatts in
19 that type of particular circumstance, that would not
20 prohibit an allottee that has a maximum 3 megawatts to
21 receive its proportionate pro rata distribution of the
22 unsuccessful allottees.

23 MR. FITZGERALD: So the marketing criteria's
24 actually are provided for a situation in which an allottee

25 that cannot take its allocation. That allocation will

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and 1 actually be distributed and you don't have to go back in
2 look at your original pool; is that correct?

not 3 MR. SIMONTON: That's correct. Yeah, we would
4 go back out to other applicants to look to see how would
we 5 redistribute.

of 6 MR. FITZGERALD: The second question, in terms
7 looking at the types of data that you will accept for
8 substantiating load, are you willing to accept balancing
9 authority, metered data, generation -- data from the
10 generation transmission cooperatives or transmission
11 provided meter data? Would those be acceptable forms of
12 data to provide to substantiate load?

13 MR. SIMONTON: Yes, they would. And one other
14 piece to supplement in response to the first question on
15 redistribution, what we described was Western's criteria
for 16 the October of '16 deadline and that will be redistributed
17 to Schedule D, other Schedule D allottees.

18 But based on the HPAA legislation and Western
19 conforming to that legislation, there is a secondary
20 potential redistribution on October 1st, 2017 in the event
21 that a Schedule D or any other allottee was not successful
22 in getting a contract in place that that power could
23 potentially be redistributed to the existing contractors.

two

24 So I just want to clarify there are basically

25 layers of potential redistribution: October 1st, 2016 and

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1 Schedule D allottees and then October 1st, 2017 existing
2 contractors.

3 MR. JOHANSON: Hakon Johanson, Town of Gilbert -

4 THE COURT REPORTER: I'm sorry --

5 MR. JOHANSON: -- it sounded a little bit like -

6 MR. HARNESS: She didn't catch your name.

7 MR. JOHANSON: Hakon Johanson. You want me to
8 spell that, H-A-K-O-N, first name; Johanson,
9 J-O-H-A-N-S-O-N, Town of Gilbert.

10 So if too many people applying that would be
11 excluded for any reason, that 6.8 percent really might be
12 supposed to be 8 percent or 8.2 or 10, but if they're
13 excluded later in the game, the people that might be
14 that 8.3, whatever number and that 6.8 are out of luck
15 because too many people -- or people applied that weren't
16 able to substantiate.

between

17 How is that going to be reconciled?

18 MR. SIMONTON: All right. Let's be clear. If a
19 proposed allottee or set proposed allottees are unable to
20 substantiate their loads in a manner in which their loads
21 are less, that could initiate a re-calculation, which

would

22 then identify a possibly higher load target percentage
23 because that variable -- it's a -- it's -- to the degree
24 that your loads change, that percentage target changes in

25 order to maintain the distribution of the kilowatts that
are

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1 needed.

2 So, yes, in the event that we had loads that are
3 adjusted based throughout the substantiation process,
which
4 really gets into what Bob was mentioning earlier that here
5 is somebody who may be in that 7 percent range so they
6 didn't get something here, but through load
substantiation,
7 let's say, something happens that we now have to target
8 8 percent and that party will then get identified and say,
9 "You're now a proposed allottee. We'll need to
substantiate
10 your load, as well."

11 MR. JOHANSON: Thank you. It sounded like it
was
12 only going to be amongst the already proposed allottees
and
13 not the --

14 MR. SIMONTON: No, the allocations --

15 MR. JOHANSON: So the whole pool is still in
play,
16 not just the number of proposed allottees?

17 MR. SIMONTON: Right. At this stage, all
18 applicants are --

19 MR. JOHANSON: If it were to change, that would
20 expand the number of potential proposed allottees?

21 MR. SIMONTON: Correct. Correct. Until we get
to
22 the point of the final allocations and the redistribution

still 23 process we talked about before, those applications are

24 under consideration. Bob.

dug 25 MR. LYNCH: Bob Lynch again. I think you just

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1 yourself a paper hole because what you've essentially said
2 is that everybody who applied needs to give you load
3 substantiation in case this happens and all of a sudden
4 you're going to take a threshold, whatever, you've got
5 several, let's say, 16.8 and kick it to 7 or 7.5 because
6 you've got to do the math, if they haven't done the load
7 substantiation, where are you?

8 I mean, I think what I just heard is that
9 everybody's got to do load substantiation whether you're
10 the list or not so that you've got that data in case you
11 need it. Am I correct?

12 MR. SIMONTON: No, no. I don't need to
13 substantiate loads until somebody's identified as a
14 allottee, which right now there are 58 proposed allottees
15 remain who are not.

16 If I get into the situation that we just
17 described, we could provide that what is now a not
18 allottee who would be a new proposed allottee, provided
19 we never have to put into -- we -- we -- I'm confident we
20 provided them substantial notice to provide the load
21 substantiation in a timely fashion for Western to proceed
22 its process.

23 It's a concerned "yes," duly noted "yes." Is
24 there, you know, a better fix? I'm open to suggestions to

on

proposed

proposed

in

25 comments for sure.

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1 Lee, I think you had something; right?

2 MR. GARDNER: I'm Lee Gardner from CRIT.

3 MR. SIMONTON: Lee, she needs -- she needs to be
4 able to hear you.

5 MR. GARDNER: Lee Gardner, Colorado River Indian
6 Reservation. I'm interested in the October 2016 ready,
7 willing and able qualification in order to continue to get

a

8 contract for tribes and particularly the Colorado River
9 Indian Tribe and the Chemehuevi Tribe.

10 Other tribes are not really hooked up to get
11 service from Western, and does this qualification mean

that

12 they have to have transmission service that's ready and
13 and that they're willing to manage by October 2016?

able

14 MR. SIMONTON: No, the October 2016 ready,

willing

15 and able provisions are not applicable to tribal entities.

16 MR. GARDNER: And what does it mean for tribes
17 that they should have the capability?

18 MR. SIMONTON: My preference would be that they,
19 too, would be ready, willing and able by October of 2016,
20 but it's not a requirement for a tribe, so that's one of

the

21 purposes is we try to work with tribes to apply, by all
22 means, try to get them ready by October 1st, 2017.

23 But I think even the provisions of HPAA in the

you'd 24 event you didn't have a contract by October 1st, 2017,
in 25 still be potentially losing your allocation by that time

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1 that contract. But in this case, you have to be ready,
2 willing and able by October 1st, 2016 is not applicable to
3 tribes.

4 MR. GARDNER: In the case of CRIT or other small
5 tribes, they -- a lot of them, including CRIT don't have a
6 utility in operation and they don't have a utility
planning
7 service in operation and in order to be able to justify
8 going ahead after October 2016, what do you expect those
9 tribes will be able to give you to show that they have the
10 capability to go ahead and contract in 2017?

11 MR. SIMONTON: 7, if they're looking to take
that
12 to load, they need to show us whatever means they have,
13 whether it be a transmission contract or what have you to
14 get that power to load.

15 Tribes also have the ability to do a tribal
16 benefit credit arrangement, so we'd be seeking to have
those
17 either have direct delivery just like any other customer
or
18 have a tribal benefit credit arrangement and be able to
19 demonstrate the use of that credit arrangement's
20 effectiveness with whoever they may be paring up with.

21 MR. GARDNER: Have you gotten information and
22 justification for being able to assume that tribes will be
23 able to set up some plan of dealing arrangement so that
they
24 can qualify for a contract in 2017?

25

MR. SIMONTON: You mean -- I'm not too sure I'm

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1 understanding your question right. Do I have confirmation
2 or information that indicates that tribes will have what
3 they need to be ready?

one

4 MR. GARDNER: Yes. If they have to deal with
5 transmission entity or maybe no transmission entity and
6 to, in effect, invent one, or conform a letter of intent
7 to be a transmitter of electricity, is there a real assured
8 capability for all the tribes that are on this list of
9 eligible allottees?

have

to

10 MR. SIMONTON: No, I would say they're not
11 assured. Each of them has their own arrangements, their
12 resource portfolios, their own host utilities and their
13 options for any kind of Federal benefit arrangements.

own

own

have

14 I'm not aware of an assurance that they would
15 the means to physically limit the power or come to terms
16 with a benefiting partner.

17 We have had those interested or express an
18 interest in engaging in tribal benefit credit arrangements
19 with tribes. That's really more up to the tribes and that
20 other entity to work those arrangements out.

will

21 I mean, Western obviously can help facilitate
22 that, but, no, I don't know of an assurance that there
23 be transmission or, you know, necessary time to develop a

- own
- 24 tribal utility or become certified to transmission their
- 25 power on their own terms.

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1 MR. GARDNER: 7, for example, at CRIT, the
2 Congress added 16,000 acres to the Arizona side of the
3 reservation and that new land does not have electric
4 service.

5 CRIT does not have a planning or an operating
6 utility to themselves guarantee some sort of service
there.

7 It doesn't have a pool of money waiting to spend to
8 guarantee that kind of infrastructure. So I'm wondering
9 whether this capability by 2016 is really fair and doable
10 for all the tribes who have load, but no way to get the
load
11 from Hoover to their reservation.

12 MR. SIMONTON: 7, again, the October 1st, 2016
13 date is not applicable to tribes. And, you know, all I
can
14 do is suggest that we try to work cooperatively on how to
15 work out what -- the tribes' needs and given the
restraints
16 that are presented to everybody and whether their options
17 are out there including benefit credit arrangements.

18 MR. GARDNER: I would suggest that it be made
19 clear to all tribes that this date is not what it appears
to
20 be, as far as tribes are concerned, as far as their
21 transmission connections and management of the fault from
22 Hoover to their loads, because the way it reads, tribes
are
23 not able to read this -- reach this deadline and realize

24 that they don't have to meet it.

25 MR. SIMONTON: Okay. I can clarify it in our

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our 1 questions and responses. I'll be noting the language in
2 criteria as set for tribes ready, willing and able
3 divisions, and I can definitely make that clear in our
4 comment responses or in this case our question responses
5 that we hope to publish out in the next few weeks.

is 6 MR. GARDNER: Another question similar to this
7 the eligibility or capability for tribes to serve the load
8 in two or more states.

as 9 In CRIT's circumstance, it has Arizona and
10 California closed. Fort Mohave has three states to deal
11 with. It seems to me that Western has got the capability
12 and the duty to -- to deal with tribes in all states, but
13 to whether this is percentages, which underlie the
14 allocations are really separate and fair for each tribe,
15 depending on what state they're serving, is something that
16 tribes ought to be aware of and look at separately because
and 17 as I said, they don't have electric planning departments
18 they don't have plans that go out, you know, 50 years --
or 19 even 50 years, so I think that that kind of eligibility
20 needs to be looked at separately for the tribes. I'm glad
21 to hear that you tend to do that. Thank you.

22 MR. SIMONTON: Thank you.

23 MR. FITZGERALD: Mike, David Fitzgerald again.
24 One more question. I know that when the cooperatives --

25 certain of the cooperatives submitted their applications,

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1 you went back to them and asked them to adjust their load
2 information based on applications that you had received
from
3 other applicants. Is that not correct?

4 MR. SIMONTON: Yeah, as described, we had an
5 application who listed their host utility, which may or
may
6 not be a cooperative in this case, in this example. You
may
7 have an applicant that listed their host utility to be a
8 cooperative and that cooperative also applied on its own
9 behalf.

10 When asked if the host utility included the
other
11 applicant's load, if the response was affirmative, the
host
12 utility's load was reduced by the other -- its customer's
13 application load.

14 MR. FITZGERALD: If the other applicant did not
15 receive an allocation, do you go back and increase the
host
16 utility's load profile?

17 MR. SIMONTON: No, there was not an "if/then"
18 process in that scenario. The load was considered once
for
19 the applicant itself, which in this case the load was
20 reduced from the host utility. We did not go and analyze
21 what of the applications were unsuccessful and then go
back
22 and say, "7, we considered that load for this application

back

23 and now that they're unsuccessful, we need to go add it
24 to the other host utility and consider it in their
25 application." That process did not take place.

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time 1 MR. FITZGERALD: Will you consider that this
2 around before you make your final allocations?

us 3 MR. SIMONTON: We will consider it if you give
4 a comment to that effect.

in 5 MR. FITZGERALD: Okay. Because if we're coming
6 and we're substantiating our load, it's going to be
7 different from what you previously adjusted. We're going
to 8 have a mismatch there.

9 MR. SIMONTON: Absolutely.

10 MR. FITZGERALD: So we need to have the data to
11 align, and if you have an unsuccessful applicant, it seems
12 that the cooperatives host utility's load has been
13 artificially reduced, so we would like for that to be
14 addressed during your next consideration.

you. 15 MR. SIMONTON: We will consider that. Thank
16 Yes, sir.

again. 17 MR. DULANEY: Alan Dulaney, City of Peoria

18 This is my second dumb question. But Lee was discussing a
19 list of what's needed to demonstrate ready, willing and
able 20 by October 2016. And you had mentioned that you would
21 include that in your responses to the questions.

22 I wonder if you would do the same thing for
23 non-tribal entities of the City's? Could you do that,

where 24 unless you've already done it and I simply don't know

25 it is.

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1 MR. SIMONTON: I think we can possibly respond
to
2 that one detail. Doug, correct me if I'm wrong, we'll
have
3 to probably try and be cautious to make sure we're
4 responding to questions and comments that are still
focused
5 on the proposed allocations.

6 MR. DULANEY: Okay. All right.

7 MR. SIMONTON: I mean, at some point that will
8 need to be clarified, I agree, but I just don't know if
that
9 level will need to be based on these proposals and the
10 comments received with these proposals.

11 MR. DULANEY: At some point in the future?

12 MR. SIMONTON: Absolutely. Yes.

13 MR. DULANEY: That would be fine. Thanks.

14 MR. SIMONTON: Dennis.

15 MR. DELANEY: Dennis Delaney with KR Saline &
16 Associates, and I would like to ask just a couple
17 clarification questions.

18 One is I want to support David's comment on
adding
19 the load back in for entities that were unsuccessful so
that
20 the host utility's total load's considered in the
allocation
21 process and we had several applications that fell into
that
22 category, so we're sensitive to that issue.

how

23 The second question, and I don't know if you're
24 ready to prepare this question, but have you dealt with
25 you're going to deal with the capitalized deficits

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1 collection from the new allottees?

2 speak

MR. SIMONTON: We -- 7, again, I guess I can

3 capital
4 to

to that topic. Again, I'm thinking that's out of the

purview of these proposals. You're asking about the

5 to

advancement replacement reimbursements from new allottees

6 existing customers?

7 MR. DELANEY: Correct.

8 MR. SIMONTON: That is spelled out in the
9 Implementation Agreement on how that will be done. I
10 believe they've got a five-year window to be approached.

11 magnitude

MR. DELANEY: Has Western determined the

12 of dollars per megawatt --

13 that

MR. SIMONTON: Yes, I don't have the numbers off
14 the top of my head. I mean, we publish every year what

15 million

-- that total value would be and you take a percentage of
16 that, so every year we do publish tables. I believe their
17 rates -- the department has published them on our website
18 and don't quote me on this -- I think it's around \$6

19 that
20 that

that will be reimbursed or handed off back and forth. So
you can do a pro rata percentage, but that's something

21 I think we can discuss. I don't know that it would be
22 necessarily prudent to these proposals.

23 MR. DELANEY: I think it would be prudent for

24 people to understand what that means to them.

25 MR. SIMONTON: Okay.

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1 MR. DELANEY: Thank you.

2 MR. SIMONTON: Other questions?

3 (Pause.)

4 MR. SIMONTON: Okay. Yes, sir.

5 MR. MOYES: Jay Moyes with Moyes, Sellers &
6 Hendricks on behalf of the --

7 THE COURT REPORTER: You have to speak --

8 MR. SIMONTON: We're not hearing you. You have
to
9 speak up so she can hear you.

10 MR. MOYES: I would just like to second Dennis
11 Delaney's last comment recognizing that the issue of CAPEX
12 reimbursement is not a legal component of this stage of
the
13 allocation process; nonetheless, if I were representing a
14 new allottee who has been proposed for a small allocation,
15 and if I were considering whether or not that small
16 allocation represents enough value to offset the
17 administrative costs and expenses that will be entailed in
18 being able to utilize or take advantage of the value of
that
19 allocation, I would want to know as soon as possible in
the
20 process what that CAPEX reimbursement component is going
to
21 cost me, what the parameters are for timing of that
22 repayment and so forth.

23 So I just think that's a -- whether it's legally

a

24 required at this stage is one question, but I think it is

25 prudent thing for purposes of helping to educate the folks

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1 who are new to this process, which includes a lot of
people,
2 to help them appreciate that's coming down the pike and
3 factor that into their analysis.

4 MR. SIMONTON: Thank you. I agree and whether
5 it's officially part of this process or not, I think we're
6 happy to respond to those questions that people might be
7 interested in.

8 I know we have in the past and each year that
9 figure is updated, so at the very least a refresh, so,
yeah,
10 we'll be sure to address that question.

11 MR. MOYES: Thank you.

12 MR. SIMONTON: Bob.

13 MR. LYNCH: Bob Lynch again. Well, to follow up
14 on this theme, we've got a comment deadline for the day
15 after the last Public Comment Forum. It would seem
prudent
16 if this information, which is relevant, as you and Dennis
17 and Jay said, to have that available to the pool of
18 applicants, whether they're allottees or not, on a generic
19 basis so much per megawatt -- if they can't do the math,
so
20 be it -- but to have that number out and to have that
21 information available by e-mail before people go to Public
22 Comment Forum because I agree. There are economic issues
23 associated with becoming part of the Hoover family if
you're

taken 24 not already there and those economic issues need to be
25 into consideration.

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1 And people may want, when they're educated about
2 this, have something to say about it in your process. All
3 we've got now is the Public Comment Forum and without
4 elongating the process, which we can't do because you have
5 statutory deadline or reinventing some wheel after the
6 of the year, which none of us think makes any sense.

7 I mean, you're -- you've got a short time frame
8 anyway. That tidbit of information may be relevant to the
9 Public Comment Forums. So if there was some way you could
10 get that data out to everybody in a generic fashion ahead
11 time, I would appreciate it. I think others would.

12 MR. SIMONTON: Certainly. We'll put that out
13 there. Again, and just to be clear, you know, and I agree
14 that is pertinent information for folks to understand
15 whether they want to continue to pursue allocations or
16 but just to be clear, the final allocation in the Federal
17 Register Notice that we publish for hopefully by December,
18 does not obligate those -- those final allottees to a
19 contract. It's not till they actually execute a contract
20 that they have to be committing any kind of an obligation
21 and that for non-tribes wouldn't happen until October 2016
22 to put their potential obligations at rest. So just
23 something else to consider.

24 MR. DELANEY: Dennis Delaney again. To help,

a

first

of

not,

is 25 could you just confirm our understanding that that number

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1 approximately \$70,000 per megawatt of allocation.

about

2 MR. SIMONTON: I think I forwarded something
3 6 million -- it's roughly about 6 million if you advertise
4 that over the 69 -- or actually, I'm sorry, the 80 -- I
5 don't know. I think it's the whole 104, right, so you're
6 talking 6 million over the 104, whatever that may be.

7 MR. DELANEY: If Western could just do an
8 estimate --

9 MR. SIMONTON: Sure.

10 MR. DELANEY: -- ballpark number like that so
11 people have a --

12 MR. SIMONTON: Yeah, we'll be sure to do that.
13 Any other questions?

the

14 MR. KAI: My name is John Kai and I represent
15 two irrigation districts, Red Rock Irrigation District and
16 Mohave Valley Irrigation District.

water

17 In your section there, if people was on CAP
18 and didn't utilize the power from the dates that you
19 require, you didn't accept any other means. If you didn't
20 have usage of power when you were receiving CAP water and
21 the CAP water should be cut off, there wasn't anything in
22 there addressing that issue. Are they going to look at
23 that?

24 MR. SIMONTON: No, we looked at actual loads and
25 if your loads, for whatever reason, based on the CAP takes

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1 or not takes, did not come to fruition or could not be
2 substantiated, again, actual loads is what were used, to
the
3 degree they were available.

4 For a tribe, they are able to work with Western
5 and estimate an actual load, but, again, would still be an
6 estimation of what your actual load would have been and
that
7 analogy is being substantiated, as well, at least as seen
in
8 a review in Western's assessment that's being a reasonable
9 estimation of load for a tribe.

10 MR. KAI: So tribes were allowed, but individual
11 irrigation districts weren't allowed to estimate their
load?

12 MR. SIMONTON: That's correct. And that's
13 consistent with our criteria as published October -- no,
14 December 30th of last year.

15 Any other questions?

16 (Pause.)

17 MR. SIMONTON: 7, if you are not already on our
18 interested parties' list and would like to receive
19 notifications on a going-forward basis, this last slide
has
20 my contact information. Feel free to give me a call and
21 e-mail me and I will be sure to make sure you are
informed;
22 other questions, as well.

23 Again, I appreciate everyone's attendance today

24 and for the discussion, very good discussion and, again,
25 comments if you're interested in one way or another to

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1 provide comments, please do so by the due date.
Appreciate

2 it. Thank you.

3 MR. HARNESS: Before we break up, I just want
4 to -- before we close up, I just wanted to thank everybody
5 for coming this morning and we certainly did get a lot of
6 good dialogue and suggestions and so we appreciate
7 everybody's participation.

8 I would ask if you did not sign the attendance
9 roster when you came in that's outside this door, if you
10 could do that. We'd also appreciate that so that we have
an
11 accurate accounting of who was here today. So thank you
12 very much. Have a good day. And we're off the record.

13 (Whereupon, the proceedings concluded at 11:07
14 a.m.)

15 * * * * *

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sworn

I, CHRISTINE JOHNSON, having been first duly

and appointed as Official Court Reporter herein, do hereby
certify that the foregoing pages, inclusive, constitute a
full, true and accurate transcript of all the proceedings
had in the above matter, all done to the best of my skill
and ability.

DATED this _____ day of _____, 2014.

Christine Johnson, RPR, RMR
Certified Court Reporter No. 50383

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