

STATE OF NEVADA

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**COLORADO RIVER COMMISSION
OF NEVADA**

March 6, 2017

NOTICE AND REQUEST FOR COMMENTS

**DRAFT COMMISSION ORDER ESTABLISHING REALLOCATIONS
OF HYDROPOWER RESOURCES
FORMERLY HELD BY AMERICAN PACIFIC CORP**

On January 10, 2017, the Colorado River Commission of Nevada ("COMMISSION") reviewed, considered and approved the Notice and Invitation to Apply for the Reallocation of Hydropower Resources, the selection criteria and the Application form to be utilized by applicants for this power.

On January 12, 2017, COMMISSION staff issued the Notice and Invitation to Apply for the Reallocation of Hydropower Resources, the selection criteria and the Application. Completed applications were due to the COMMISSION by 5 PM PST on February 13, 2017.

The COMMISSION received nine (9) applications, on or before, the February 13, 2017 due date. In accordance with the regulations contained in Nevada Administrative Code ("NAC") Chapter 538 and the selection criteria adopted on January 10, 2017, COMMISSION Staff evaluated each application for completeness and creditworthiness, verified electric load data, and determined if the application met the general eligibility criteria. In developing its recommendation regarding proposed allocations, Staff considered how an Applicant's use of the hydropower resource would provide the greatest possible benefit to the state of Nevada.

Based on that evaluation, Staff developed the attached Draft Order in the matter of the REALLOCATION OF HYDROPOWER RESOURCES FORMERLY HELD BY AMERICAN PACIFIC CORP. As required by NAC 538, a copy of the Draft Order is provided to those who submitted applications. In addition, the Draft Order is being provided to all current customers of the COMMISSION, interested parties on the COMMISSION'S notification list and published on the COMMISSION'S website at: crc.nv.gov.

Any comments on the Draft Order must be submitted in writing by **April 6, 2017**. Comments may be submitted:

- via e-mail to crcpower@crc.nv.gov,
- by fax to (702) 486-2695,
- or delivered by mail or in person to the COMMISSION'S office at 555 E. Washington Avenue, Suite 3100, Las Vegas, Nevada 89101, during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.).

Following the close of the comment period, Staff will review and consider all comments received. Based on the comments received, changes may be made to the Draft Order before it is presented at the COMMISSION hearing for review and approval. The Draft Order to be presented to the COMMISSION will be available for public review prior to the COMMISSION meeting in accordance with the Nevada Open Meeting Law.

The Commission is currently expected to conduct a hearing on the Draft Order on **May 9, 2017**. The Commission will provide notice of the hearing date, time and location in accordance with the Nevada Open Meeting law. All interested parties are encouraged to attend and may provide public comment at that time.

**BEFORE THE
COLORADO RIVER COMMISSION OF NEVADA**

In The Matter Of:

REALLOCATION OF HYDROPOWER
RESOURCES FORMERLY HELD BY
AMERICAN PACIFIC CORP.

Draft
ORDER

At the regular monthly meeting of the Colorado River Commission of Nevada (“COMMISSION”) held on May 9, 2017, a public hearing was held on the reallocation of hydropower resources formerly held by American Pacific Corp.:

PRESENT: Chairwoman Puoy K. Premsrirut
Vice Chairwoman Kara J. Kelley
Commissioner Marilyn Kirkpatrick
Commissioner Duncan R. McCoy
Commissioner Steve Sisolak
Commissioner Dan H. Stewart
Commissioner Cody T. Winterton

Executive Director Jayne Harkins, P.E.

The COMMISSION makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On May 9, 2017, a public hearing was held in the above-entitled matter in compliance with the provisions of the Nevada Open Meeting Law, Chapter 538 of the Nevada Revised Statutes (NRS) and Chapter 538 of the Nevada Administrative Code (NAC).
2. The COMMISSION represents and acts for the State of Nevada in the negotiation and execution of contracts for the purchase of hydropower from federal generation facilities “for the greatest possible benefit to this state” pursuant to NRS 538.161 and NRS 538.181.
3. American Pacific Corp. (“AMPAC”) was a customer of the COMMISSION who held an allocation for 2,756 kW of capacity and 4,618,416 kWh of energy (Summer Season)

1 and 3,623 kW of capacity and 6,118,263 kWh of energy (Winter Season) and
2 associated transmission from the Salt Lake City Area Integrated Projects for the period
3 October 1, 2004 through September 30, 2024 (“the SLCAIP resource”).

- 4 4. AMPAC had also been allocated 10,730 kW of Schedule A capacity and 47,454,729
5 kWh of Schedule A energy from the Boulder Canyon Project for the period October 1,
6 2017 through September 30, 2067 (“the post 2017 BCP resource”).
- 7 5. In 2016, AMPAC informed the Commission that it would be unable to utilize its SLCAIP
8 resource and that it would not enter into a contract for its post 2017 BCP resource.
- 9 6. Upon receiving notification from AMPAC, the COMMISSION began the process to
10 reallocate the hydropower resources in accordance with NAC 538.455 and prepared a
11 draft Notice and Invitation to Apply for the Reallocation of Hydropower Resources
12 which included draft selection criteria as well as a draft Application.
- 13 7. On or about November 1, 2016, the COMMISSION issued a Notice of a Public
14 Information Meeting to be held on November 10, 2016 seeking comments regarding
15 the draft Notice and Invitation to Apply for the Reallocation of Hydropower Resources,
16 the draft selection criteria and the draft Application.
- 17 8. The November 1, 2016 Notice included a copy of the draft documents and was sent to all
18 current customers of the COMMISSION, all individuals on the COMMISSION'S
19 notification list and was placed on the COMMISSION'S website.
- 20 9. The November 1, 2016 Notice also solicited written comments. Any written comments
21 were to be submitted to the COMMISSION by 5 PM PST on November 17, 2016.
- 22 10. The Public Information Meeting was held on November 10, 2016 wherein staff of the
23 COMMISSION reviewed the draft documents as well as answered questions from the
24 attendees.
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1 11. Subsequent to the Public Information Meeting, the COMMISSION received written
2 comments from four of its customers, including NV Energy, Valley Electric Association,
3 Titanium Metals Corporation, and Lincoln County Power District No. 1. Staff reviewed
4 and considered the comments offered by its customers and provided written responses
5 to their comments/questions.

6 12. On January 10, 2017, the COMMISSION reviewed, considered and approved the
7 Notice and Invitation to Apply for the Reallocation of Hydropower Resources, the
8 selection criteria and the Application.

9 13. On January 12, 2017, COMMISSION staff issued the Notice and Invitation to Apply
10 for the Reallocation of Hydropower Resources, the selection criteria and the
11 Application. Completed applications were due to the COMMISSION by 5 PM PST on
12 February 13, 2017.

13 14. The criteria for the reallocation as approved by the COMMISSION:

- 14 a. The award of resources to the Applicant will achieve the greatest possible
15 benefit to the state.
16 b. The award of resources to the Applicant will not place an undue burden
17 on the Commission.
18 c. The Applicant must be an entity that the Commission has the ability to
19 serve under NRS 704.787.
20 d. If the entity is a qualified Applicant under NRS 704.787(b), the entity must
21 certify that any reallocated power awarded will be used for its water and
22 wastewater operations.
23 e. The Applicant must have sufficient load to fully utilize the allocated
24 resource.
25 f. An Applicant requesting an allocation of SLCAIP resource must be able
26 to accept a minimum SLCAIP schedule of 1 MW off-peak.
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1 g. The Applicant must be ready to take delivery of the additional resource
2 on October 1, 2017.

3 h. The Applicant must demonstrate, by June 1, 2017, that it will have all
4 necessary transmission and distribution arrangements in place prior to
5 delivery.

6 15. The following nine (9) entities completed the Application and submitted it prior to the
7 deadline:

8 a. City of Henderson;

9 b. City of Las Vegas;

10 c. Clark County Water Reclamation District (“CCWRD”);

11 d. Las Vegas Valley Water District (“LVVWD”);

12 e. Lincoln County Power District No. 1 (“LCPD”);

13 f. Nevada Power Co. (“NV Energy”);

14 g. Southern Nevada Water Authority (“SNWA”);

15 h. Titanium Metals Corp. (“Timet”); and

16 i. Valley Electric Association (“VEA”).

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18 16. All nine (9) entities applied for some or all of the available post 2017 BCP resource.

19 17. Three (3) entities – CCWRD, LCPD and VEA applied for the SLCAIP resource. Of the
20 three applicants, only VEA was a prior recipient of SLCAIP power.

21 18. Staff reviewed the completed applications and assessed the applications in
22 accordance with the approved criteria.

23 19. Staff noted that of the nine (9) applications submitted, seven (7) were from public
24 and/or not for profit entities and two (2) – NV Energy and Timet were from private for-
25 profit entities.
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1 20. Staff determined and the COMMISSION hereby concurs that the reallocation of any
2 additional hydropower resources to NV Energy does not achieve the greatest possible
3 benefit to the state because NV Energy is a private for profit entity and already
4 receives 47% of the COMMISSION'S total available BCP energy and 59% of the
5 COMMISSION'S total available BCP capacity. The data submitted by NV Energy
6 shows their annual energy load for the past three years was over 22 billion kWh of
7 which their BCP allocation is less than 2%. The reallocation of all or a portion of the
8 available hydropower resources would be a very small addition to NV Energy's
9 resources and provide little benefit to the state.
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11 21. Staff determined and the COMMISSION hereby concurs that the reallocation of any
12 additional hydropower resources to Timet does not achieve the greatest possible
13 benefit to the state because Timet is a private for profit entity. Residents of the state of
14 Nevada would likely see no appreciable benefit.

15 22. Staff determined and the COMMISSION hereby concurs that the reallocation of the
16 available resources to the remaining seven (7) public entities, due to their geographic
17 coverage and current power requirements, would achieve the greatest possible benefit
18 to the state.
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20 23. Staff noted during their review of the monthly maximum demand and energy use data
21 supplied on the applications that each of the public entities would receive measureable
22 benefits from even minimum allocations as the allocations would be a greater
23 percentage of their power requirements.

24 24. Staff also noted that SNWA appeared to be short on capacity while LCPD appeared to
25 be short on energy.
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1 25. Staff noted that the applications of LCPD and VEA, highlighted that they serve rural
2 low income communities.

3 26. Staff recommends that the COMMISSION order the following reallocation of the
4 hydropower resources:

- 5 a. All of the SLCAIP resource, including energy, capacity and associated
6 transmission to VEA;
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8 b. Twenty percent (20%) of the capacity and twenty percent (20%) of the energy
9 from the post 2017 BCP resource to each of:
10 i. CCWRD;
11 ii. City of Las Vegas;
12 iii. City of Henderson; and
13 iv. LVVWD.
14 c. Twenty percent (20%) of the capacity from the post 2017 BCP resource to
15 SNWA; and
16 d. Twenty percent (20%) of the energy from the post 2017 BCP resource to LCPD.
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18 CONCLUSIONS OF LAW

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20 1. The COMMISSION has the authority through NRS and NAC chapters 538 to reallocate
21 hydropower resources.
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23 2. Reallocation of the hydropower resources so that the greatest numbers of Nevada
24 residents receive an appreciable benefit provides the greatest possible benefit to the
25 state.
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1 3. Pursuant to NRS 704.787, CCWRD, City of Las Vegas, City of Henderson, LVVWD
2 and SNWA must use the reallocated resource for their water and wastewater
3 operations.

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5 ORDER

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7 CAUSE APPEARING THEREFORE:

8 IT IS HEREBY ORDERED that:

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10 1. All of the SLCAIP resource, including energy, capacity and associated
11 transmission is hereby reallocated to Valley Electric Association;
- 12 2. Twenty percent (20%) of the capacity and twenty percent (20%) of the energy
13 from the post 2017 BCP resource is hereby reallocated to:
- 14 i. Clark County Water Reclamation District, for its water and wastewater
15 operations;
 - 16 ii. City of Las Vegas, for its water and wastewater operations;
 - 17 iii. City of Henderson, for its water and wastewater operations; and
 - 18 iv. Las Vegas Valley Water District, for its water and wastewater operations.
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20 3. Twenty percent (20%) of the capacity from the post 2017 BCP resource is
21 hereby reallocated to Southern Nevada Water Authority, for its water and
22 wastewater operations; and
- 23 4. Twenty percent (20%) of the energy from the post 2017 BCP resource is hereby
24 reallocated to Lincoln County Power District No. 1.
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26 5. Upon execution of this Order, COMMISSION Staff will cause to be published the
27 notice required by subsection 6 of NAC 538.455.
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***THIS IS NOT A FINAL ORDER AND MAY BE REVISED
BY THE COLORADO RIVER COMMISSION OF NEVADA.***

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- 6. Applicants who have received a reallocation of a hydropower resource must execute amendments to their current applicable hydropower contract to include the reallocated resources within ninety (90) days of the date of the formal offer from the Executive Director of the reallocated resource. Formal offers are sent following the publication required in paragraph 5, supra.
- 7. The Executive Director is hereby authorized to execute the amendments to the applicants' current applicable hydropower contracts to include the reallocated resources on behalf of the COMMISSION.

Dated this _____ day of May, 2017.

BY THE COMMISSION:

PUOY K. PREMSRIRUT
CHAIRWOMAN