

California, southern Nevada, most of Arizona, and a small part of New Mexico; and is more specifically defined in the Conformed Criteria. New customers meeting the requirements established in the BCP marketing criteria and qualifying Native American Tribes within the BCP marketing area will be eligible to request an allocation of capacity and energy from the BCP resource pool. Native American Tribes need not have utility status to qualify for an allocation. As provided in the current BCP Implementation Agreement, new contractors, or contractors who receive an increased allocation will be required to reimburse existing BCP contractors for replacement capital advances to the extent existing contractors' allocations are reduced as a result of creating the resource pool.

Western is seeking comments regarding the applicability of the PMI to the BCP, the quantity of resources to be extended to existing contractors, the size of the proposed resource pool, excess energy provisions, and the term of contracts.

Under their respective State laws the Colorado River Commission (CRC) and the Arizona Power Authority (APA) have been the designated agents for acquiring and remarketing BCP power within Nevada and Arizona respectively. Western seeks comments regarding CRC and APA's role in Western's allocation process.

Following the public comment period, Western will analyze the comments received and publish its policy regarding the application of PMI to BCP in the **Federal Register**.

#### Regulatory Procedure Requirements

##### *Determination Under Executive Order 12866*

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

##### *Environmental Compliance*

In accordance with the DOE National Environmental Policy Act Implementing Procedures (10 CFR 1021), Western has determined that this action fits within class of action B4.1 Contracts/marketing plans/policies for excess electric power, in Appendix B to Subpart D to part 1021—Categorical Exclusions Applicable to Specific Agency Actions.

Dated: November 10, 2009.

**Timothy J. Meeks,**

*Administrator.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 13571-000]

#### Goshen Powerhouse, LLC: Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

November 10, 2009.

On August 24, 2009, Goshen Powerhouse, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Goshen Dam Hydroelectric Project No. 13571, to be located at the existing Goshen Dam, on the Elkhart River, in Elkhart County, Indiana. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The existing dam is owned and operated by Elkhart County, Indiana and the existing powerhouse and headrace canal is owned and operated by the City of Goshen, Indiana. The proposed project would consist of: (1) The existing 12.5-foot-high concrete dam equipped with a 200-foot-long ogee spillway; (2) an existing 765-acre impoundment with a normal water surface elevation of 790.9 feet mean sea level; (3) an existing 25-foot-long by 49-foot-wide powerhouse to contain two new hydrokinetic turbine-generator systems for a total installed capacity of 80 kilowatts; (4) a new 60-foot-long, 12.5-kilovolt transmission line; and (5) appurtenant facilities. The proposed project would operate in a run-of-river mode and generate an estimated average annual generation of 578,160 kilowatt-hours.

*Applicant Contact:* Edward L. Kurth, Goshen Powerhouse, LLC, San Antonio Zanesville, Texas 78216, (210) 496-5902.

*FERC Contact:* Michael Watts, (202) 502-6123.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice.

Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions

on the Commission's Web site under the "eFiling" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13571) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RM98-1-000]

#### Records Governing Off-the-Record Communications: Public Notice

November 10, 2009.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited