



NGS, BOR WRO <ngs@usbr.gov>

Pascua Yaqui Tribe Comments on the Potential Closing of NGS and Request for Consultation

1 message

Amanda Lomayesva <Amanda.Lomayesva@pascuayaqui-nsn.gov>

Wed, Jun 28, 2017 at 4:34 PM

To: "NGS@usbr.gov" <NGS@usbr.gov>

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Good Afternoon,

Attached, please find the Pascua Yaqui Tribe's comments on the potential closure of the Navajo Generating Station and a request for consultation. Please let me know if you have any questions.

Best,

Amanda Sampson Lomayesva

Interim Attorney General

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PASCUA YAQUI TRIBE

OFFICE OF THE CHAIRMAN

June 28, 17

Hon. Secretary Ryan Zinke
U.S. DEPARTMENT OF THE INTERIOR
1849 C St., NW
Washington DC 20245



RE: Pascua Yaqui Tribe's Comments on the Potential Closing of the Navajo Generating Station and Request for Tribal Consultation

Dear Secretary Zinke:

On behalf of the Pascua Yaqui Tribe ("Tribe"), a federally recognized Tribe located near Tucson, Arizona, I write to you to provide comments regarding the potential closing of the Navajo Generating Station ("NGS"). While the Tribe's Reservation is located just outside of Tucson, the Tribe has over 15,000 tribal members who live in Arizona – approximately 4,500 who live on the Reservation, and the remaining who live in the Phoenix and Tucson metropolitan areas.

The Tribe has a contract with the Department of the Interior for the delivery and distribution of 500 acre-feet of Central Arizona Project ("CAP") water. Since 2011 the Tribe has taken delivery of its CAP water and this water is a critical water supply for the Reservation which does not have any surface water or groundwater wells to serve the Reservation. Because the Tribe's own CAP Contract allocation of 500 acre-feet is insufficient to meet annual Reservation water demands, the Tribe has also leased CAP water from other Tribes since 2012 in order to meet annual water demand needs for the Reservation and to store a portion of this CAP water underground in order to prepare for future years when CAP water may be in short supply. In other words, the Tribe has developed its own "firming" program for CAP water.

From 2011 to 2016, the Tribe received an average of 2,465 acre-feet of CAP water each year. Over the last 2 years, the Tribe has paid \$414,840 in pumping energy charges for delivery of CAP water.

The Tribe Relies on NGS Reliable and Predictable Power Costs for CAP Deliveries

The NGS power plant was built specifically to power the delivery of water from the Colorado River to Phoenix and Tucson through the CAP system. As a coal fired power plant, the NGS has provided reliable, stable energy, at a relatively low and predictable cost.

According to a recent presentation by the National Renewable Energy Laboratory ("NREL") to the CAP Power Task Force, the average expected cost of NGS power through 2030 is approximately \$40/MWh, which essentially translates into 4¢/kWh.

The Tribe relies on its CAP water for both domestic and economic development purposes. It is also critical, from the Tribe's financial perspective, that the cost of CAP water remain reasonable and predictable. The Tribe must continue to be able to rely on its delivery of CAP water, and to be able to prospectively budget for its cost. Closing the NGS will most likely have an impact on both the reliability and stability of the power costs to deliver the Tribe's CAP water.

CAP Board Efforts to Manage Future Power Costs

The Tribe understands that Central Arizona Water Conservation District ("CAWCD"), the operator of the CAP Project and entity responsible for repayment of the non-Indian portion of the capital costs of the CAP Project, and its Power Task Force, have been reviewing and preparing for post-NGS power requirements. To that end, on June 22, 2017, the CAWCD Power Task Force submitted recommendations to the CAWCD Board. In their recommendations, the Power Task Force identified several approaches to managing the known risks of future power acquisition to power the CAP system: source risk and price risk. These approaches include: managing future price risk through hedging and forward-purchase contracts, managing source risk through diversification, obtaining long-term power purchase agreements, and identifying firmed and non-firmed renewable energy opportunities. One additional recommendation made by the Task Force is for the CAWCD Board to issue requests for proposals for renewable energy projects to provide both firm and non-firm renewable energy power.

While the Tribe passes no judgment on whether these approaches are sufficient to fully mitigate the known risk of future CAP power costs, the Tribe is very concerned that despite CAWCD's best efforts, CAWCD will not be able to fully mitigate future price increase risks. This in turn will place additional burden on the Tribe to be able to financially support the delivery of the CAP water it is entitled to receive.

Impacts of NGS Closing on Tribal Member Ratepayers

As indicated, the Tribe has over 15,000 members living in Arizona – almost all of whom receive power from Arizona regulated utilities and the Salt River Project ("SRP"). The closing of NGS will also likely have direct impacts on the ratepayers of the Arizona utilities that are partial owners of NGS – SRP, APS, and TEP. The Arizona Corporation Commission ("ACC") has held several workshops on the potential impacts of NGS closing, but to date none of these utilities have publicly stated or provided their analysis of impacts. The ACC is rightfully concerned about the negative impacts to these utilities' ratepayers – including increased costs and reduced reliability - as is the Tribe, since our 15,000 tribal members living in Arizona are also ratepayers.

Impacts to Lower Colorado River Basin Development Fund ("LBDF")

When the CAP project was established under the Colorado River Basin Project Act of 1968 ("CRBPA"), the NGS was also commissioned to provide the source of power to the CAP while also generating additional power sales revenues that were to be deposited into the LBDF to defray operation, maintenance and replacement ("OM&R") costs for the CAP project for all users and to assist in repayment of the capital cost of construction of the CAP project to the U.S. Treasury.

When the Arizona Water Settlements Act ("AWSA") was passed in 2004, those NGS revenues are to continue to be deposited into the LBDF, but the use of those revenues was allocated to specific purposes to benefit only certain classes of CAP users. As a result of the AWSA, any excess revenues from NGS operations is still deposited into the LBDF, but it is then applied as a credit or offset to the CAWCD repayment obligation for the capital cost of construction of the CAP project that is allocated to non-Indian interests in the State of Arizona. Once CAWCD completes its capital repayment obligation in 2046, those excess NGS power revenues are to continue to be deposited into the LBDF and used by the Secretary to defray the cost of OM&R

that is charged to Tribes for their use of the CAP. However, with NGS shutdown, the Tribes will no longer have the expectation of this continued defraying of OM&R costs of CAP from the LBDF after 2046. Thus, after 2046, CAP costs charged to Indian Tribes to use their CAP water could essentially double in just one year if revenues from NGS do not exist to help Tribes defray OM&R.

The creation of NGS by the United States as part of the CRBPA was a mechanism to help the CAP project pay for itself and bring the cost of water deliveries down for its users. Tribal CAP water constitutes 46% of the entire CAP project. The shutdown of NGS will eliminate this revenue generating function that was contemplated as part of the CRBPA.

In addition, because the NGS will no longer be available to defray CAWCD's repayment obligation for the non-Indian portion of the CAP project, the Tribe is concerned that additional pressure may be placed on the Secretary to adjust or modify CAWCD's repayment obligation that was agreed to as part of the AWSA and codified into the law. It is important that any proposal that might be made by CAWCD or the State of Arizona in this regard also take into consideration how such a proposal would affect the long-term availability of funds from the LBDF to defray Indian OM&R and to assist in settling outstanding Tribal water rights, such as those of the Pascua Yaqui Tribe.

Recommendations for Future Considerations and Discussion

The Tribe makes the following recommendations, and requests future consultation on these items:

- 1) Given the known risk of power cost uncertainty, the Tribe proposes that the NGS owners establish a cost equalization/mitigation fund for Tribal CAP water delivery costs. The fund would be used to compensate the tribes for increased power costs above the baseline level of \$40/MWh.
- 2) The Department of the Interior ("DOI") should require further analysis from the Arizona NGS owners on the potential impacts of the NGS shut-down on low-income tribal member ratepayers across the State of Arizona. Alternatively, the DOI should encourage the ACC to require such analysis from its two regulated utilities. Based on the results of this analysis, the Arizona NGS owners should establish a mitigation fund to support efforts to minimize the impact of a NGS shut down on low-income tribal member ratepayers.
- 3) The DOI – with assistance from the Department of Energy ("DOE") and the Western Area Power Authority ("WAPA") – should facilitate a discussion among the Arizona tribes to determine if there are opportunities for the Arizona tribes to, either jointly or individually, buy power directly from NGS in the future.
- 4) The DOI should conduct an analysis of the impact of the NGS shutdown on the long-term availability of LBDF funds to defray Indian OM&R and the United States should consider providing a revenue-generating replacement of NGS power revenues for the LBDF. The allocation of federal natural resources from public domain lands and funding for the capital development by a Tribal coalition may be an option to be explored.
- 5) The Bureau of Reclamation should work with CAWCD and the Arizona Tribes to give preference to the Tribes in the selection of potential firm or non-firm renewable energy projects to provide power to the CAP.

Thank you for consideration of our comments. For follow-up regarding this letter, please contact the Tribe's Acting Attorney General, Ms. Amanda Lomayesva at ph. (520) 883-5119, or by email: Amanda.Lomayesva@pascuayaqui-nsn.gov. In addition, please do not hesitate to contact me if you have any questions.

Sincerely,

PASCUA YAQUI TRIBE



Robert Valencia, Chairman

Cc: Terry Fulp, Regional Director, Lower Colorado Region, Bureau of Reclamation
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