

remains in the possession and control of Warren Anatomical Museum, Harvard University, Boston, MA. The human remains were removed from an unknown locality in the State of Hawaii.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum professional staff in consultation with representatives of the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location in the State of Hawaii by D.H. Steadman. The human remains were presented to the Anatomical Museum of the Boston Society for Medical Improvement on an unknown date before 1847. The Anatomical Museum of the Boston Society for Medical Improvement transferred its collection to the Warren Anatomical Museum in 1871. No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate that the human remains are Native American. Museum documentation state that the human remains were recovered from the "Sandwich Islands."

"Sandwich Islands" is an antiquated term used to describe the islands of Hawaii. Archeological and historic documentation combined with oral traditions support that the human remains are from an area considered to be part of the aboriginal homelands of ancestral Native Hawaiians. Present-day groups that represent Native Hawaiians for the State of Hawaii are Hui Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs.

Officials of the Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of

shared group identity that can be reasonably traced between the Native American human remains and Hui Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs.

Representatives of any other Indian tribe or Native Hawaiian Organization that believes itself to be culturally affiliated with the human remains should contact Patricia Capone, Repatriation Coordinator, Peabody Museum of Archaeology and Ethnology, Harvard University, 11 Divinity Ave., Cambridge, MA 02138, telephone (617) 496-3702, before June 8, 2009.

Repatriation of the human remains to Hui Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs may proceed after that date if no additional claimants come forward.

The Peabody Museum of Archaeology and Ethnology and Warren Anatomical Museum are responsible for notifying the Hawaii Island Burial Council, Hui Malama I Na Kupuna O Hawai'i Nei, Oahu Island Burial Council, and the Office of Hawaiian Affairs that this notice has been published.

Dated: April 28, 2009.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

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**BILLING CODE 4312-50-S**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### **Notice of Intent To Contract for Hydroelectric Power Development at the Carter Lake Dam Outlet, a Feature of the Colorado-Big Thompson Project (C-BTP), Colorado**

**AGENCY:** Bureau of Reclamation, Department of the Interior.

**ACTION:** Notice of intent to accept proposals, select one lessee, and contract for hydroelectric power development at Carter Lake Dam Outlet.

**SUMMARY:** Current Federal policy encourages non-Federal development of electrical power resource potential on Federal water resource projects. The Department of the Interior, acting through the Bureau of Reclamation (Reclamation) will consider proposals for non-Federal development of hydroelectric power at Carter Lake Dam Outlet of the C-BTP, Colorado. Reclamation is considering such hydroelectric power development under a lease of power privilege. No Federal funds will be available for such hydroelectric power development. The Western Area Power Administration (Western) would have the first

opportunity to purchase and/or market the power that would be generated by such development under a lease of power privilege. The C-BTP is a Reclamation project. This Notice presents background information, proposal content guidelines, information concerning selection of one or more non-Federal entities to develop hydroelectric power at Carter Lake Dam Outlet, and power purchasing and/or marketing considerations. Interested entities are invited to submit a proposal on this project.

**DATES:** A written proposal and seven copies must be submitted on or before 12 p.m. (MST), on September 18, 2009. A proposal will be considered timely only if it is received in the office of the Lease of Power Privilege Coordinator by or before 12 p.m. (MST) on the designated date. Interested entities are cautioned that delayed delivery to this office due to failures or misunderstandings of the entity and/or of mail, overnight, or courier services will not excuse lateness and, accordingly, are advised to provide sufficient time for delivery. Late proposals will not be considered.

**ADDRESSES:** Written proposals and seven copies should be sent to Mr. George Gliko, Lease of Power Privilege Coordinator (GP-2200), Bureau of Reclamation, Great Plains Regional Office (GP-2200), P.O. Box 36900, Billings, MT 59107-6900.

Information related to Western's purchasing and/or marketing the power may be obtained at Western Area Power Administration, Rocky Mountain Region, Attn: Dave Neumayer, Power Marketing Manager, 5555 East Crossroads Blvd., Loveland, Colorado 80538, Telephone: (970) 461-7322.

Information related to the operation and maintenance of Carter Lake Dam and Reservoir and the St. Vrain Canal may be obtained at Northern Colorado Water Conservancy District, 220 Water Avenue, Berthoud, Colorado 80513, Telephone: (970) 532-7700.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Gliko at (406) 247-7651.

Reclamation will be available to meet with interested entities only upon written request to the Lease of Power Privilege Coordinator at the above address. Reclamation reserves the right to schedule a single meeting and/or visit to address at once the questions of all entities that have submitted questions or requested site visits.

#### **SUPPLEMENTARY INFORMATION:**

The C-BTP, located in central Colorado, was authorized for construction, including hydroelectric power, by the Department of the Interior

Appropriations Act, 1938 (1938 Act), Public Law 75-249, 50 Stat. 564 (August 9, 1937). Specifically, the 1938 Act appropriates funds for the Project's "construction in accordance with the plan described in Senate Document No. 80, Seventy-fifth Congress, First Session \* \* \*" 50 Stat. 595. As part of the C-BTP, the United States constructed Carter Lake Dam and the St. Vrain Supply Canal, which carries water south from the Carter Lake Dam Outlet to the vicinity of Lyons, Colorado. The Northern Colorado Water Conservancy District (District), under its contracts with the United States, has certain operation, maintenance, replacement, and repayment responsibilities and obligations concerning the C-BTP, which includes such responsibility for Carter Lake Dam and Reservoir and the recently transferred St. Vrain Supply Canal.

Reclamation is considering hydroelectric power development at Carter Lake Dam Outlet through a lease of power privilege. A lease of power privilege is a congressionally authorized alternative to Federal hydroelectric power development. A lease of power privilege grants to a non-Federal entity the right to utilize, consistent with C-BTP purposes, water power head or storage at and/or operationally in conjunction with the C-BTP, for non-Federal electric power generation and sale by the entity. Leases of power privilege have terms not to exceed 40 years. The general authority for lease of power privilege under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 (43 U.S.C. 522) and the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) (1939 Act). Congress authorized hydropower development for the C-BTP in Public Law 95-249. Reclamation will be the lead Federal agency for ensuring compliance with the National Environmental Policy Act (NEPA) of any lease of power privilege considered in response to this Notice. Leases of power privilege may be issued only when Reclamation, upon completion of the NEPA process, determines that the affected hydroelectric power sites are environmentally acceptable. Any lease of power privilege at Carter Lake Dam Outlet must accommodate existing contractual commitments related to operation and maintenance of such existing facilities.

Western would have the first opportunity to purchase and/or market the power that would be generated under any lease of power privilege. Under this process, Western would either purchase and market the power as Loveland Area Power (LAP) power or

market the power independently by first offering it to preference entities and secondly to non-preference entities.

All costs incurred by the United States related to development and operation and maintenance under a lease of power privilege, including but not limited to NEPA compliance, development of the lease of power privilege, design reviews, construction oversight, and any other associated documents, would be the expense of the lessee. In addition, the lessee would be required to make annual lease payments to the United States for the use of a Federal facility. This payment includes a demand, energy and administrative component. The total of the three (3) components for Fiscal Year 2008 would have resulted in an estimated lease payment between five (5) to seven (7) mills per kWh depending on the lessee's powerplant capacity and gross generation. The three lease payment components will be recalculated on an annual basis. Additional information regarding the annual lease payment will be made available upon formal request through the Lease of Power Privilege Coordinator.

*Proposal Content Guidelines:*

Interested parties should submit one or more proposals explaining in as precise detail as is practicable how the hydropower potential at each site would be developed. Factors which proposals should consider and address include, but are not limited to, the following:

A. Provide all information relevant to the qualifications of the proposing entity to plan and implement such a project, including, but not limited to, information about preference status, type of organization, length of time in business, experience in funding, design and construction of similar projects, industry rating(s) that indicate financial soundness and/or technical and managerial capability, experience of key management personnel, history of any reorganizations or mergers with other companies, safety record, and any other information that demonstrates the interested entity's organizational, technical and financial ability to perform all aspects of the work. Include a discussion of past experience in operating and maintaining similar facilities and provide references as appropriate. The term "preference entity," as applied to a lease of power privilege, means an entity qualifying for preference under Section 9c of the 1939 Act, as a municipality, public corporation or agency, or cooperative or other nonprofit organization financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, as amended.

B. Provide geographical locations and describe principal structures and other important features of the proposed development including roads and transmission lines. Estimate and describe installed capacity and the capacity of the power facilities under dry, average, and wet hydrological conditions. Also describe seasonal or annual generation patterns. Include estimates of the amount of electrical energy that would be produced from each facility for each month of average, dry, and wet water years. If capacity and energy can be delivered to another location, either by the proposing entity or by potential wheeling agents, specify where capacity and energy can be delivered. Include concepts for power sales and contractual arrangements, involved parties and the proposed approach to wheeling if required.

C. Indicate title arrangements and the ability to acquire title to or the right to occupy and use lands necessary for the proposed development, including such additional lands as may be required during construction.

D. Identify water rights applicable to the operation of the proposed development, the holder of such rights, and how these rights would be acquired or perfected.

E. Discuss any studies necessary to adequately define impacts on the C-BTP and the environment required by the development. Describe any significant environmental issues associated with the development and the proposing entity's approach for gathering relevant data and resolving such issues to protect and enhance the quality of the environment. Explain any proposed use of the hydropower development for conservation and utilization of the available water resources in the public interest.

F. Describe anticipated contractual arrangements with the entity or entities having operation and maintenance responsibility for the C-BTP feature(s) that are proposed for utilization in the hydropower development under consideration. Define how the hydropower development would operate in harmony with the C-BTP, not impact C-BTP operations, existing applicable contracts related to operation and maintenance of C-BTP feature(s) that are proposed for utilization in the hydropower development under consideration, and any other applicable water-related contracts.

G. Identify the organizational structure planned for the long-term operation and maintenance of any proposed hydropower development.

H. Provide a management plan to accomplish such activities as planning,

NEPA compliance, lease of power privilege development, design, construction, facility testing, and start of hydropower production. Prepare schedules of these activities as applicable. Describe what studies are necessary to accomplish the hydroelectric power development and how the studies would be implemented.

I. Estimate development cost. This cost should include all investment costs such as the cost of studies to determine feasibility, NEPA compliance, design, construction, associated bonding and financing as well as the amortized annual cost of the investment; also, the annual operation, maintenance, and replacement expense for the hydropower development; lease payments to the United States; and expenses that may be associated with the C-BTP. If there are additional transmission or wheeling expenses associated with the development of the hydropower development, these should be included. Identify proposed methods of financing and hydropower development. An economic analysis should be presented that compares the present worth of all benefits and costs of the hydropower development.

*Selection of Lessee:* Reclamation will evaluate proposals received in response to this published notice.

Reclamation will give more favorable consideration to proposals that (1) are well-adapted to developing, conserving, and utilizing the water and natural resources, (2) clearly demonstrate that the offeror is qualified to develop the hydropower facility and provide for long-term operation and maintenance, and (3) develop the hydropower potential economically. A proposal will be deemed unacceptable if it is inconsistent with C-BTP purposes, as determined by Reclamation. Reclamation will give preference to those entities that qualify as preference entities (as defined under PROPOSAL CONTENT GUIDELINES, item A.) provided that their proposal is at least as well-adapted to developing, conserving, and utilizing the water and natural resources as other submitted proposals and that the preference entity is well qualified. Preference entities would be allowed 90 days to improve their proposals, if necessary, to be made at least equal to a proposal that may have been submitted by a non-preference entity.

*Power Purchasing and/or Marketing Considerations:* Western would have the first opportunity to purchase and/or market the power that would be generated by the project under a lease of power privilege. Western will consult with Reclamation on such power

purchasing and/or marketing considerations.

In the event Western elects to not purchase and/or market the power generated by the hydropower development or such a decision cannot be made prior to execution of the lease of power privilege, the lessee would be responsible for marketing the power generated by the project with priority given to preference entities as heretofore defined in PROPOSAL CONTENT GUIDELINES, item A.

*Notice and Time Period to Enter Into Lease of Power Privilege:* Reclamation will notify, in writing, all entities submitting proposals of Reclamation's decision regarding selection of the potential lessee. The selected potential lessee will have five years from the date of such notification to enter into a lease of power privilege for the site or sites identified in the proposal. Such leases of power privilege will state whether and how Western will be involved in purchasing and/or marketing the power. Any excessive delay resulting from compliance with the provisions of Federal environment laws or administrative review by a Federal agency, pertaining to the project, may extend the five year time period for a period equal to that of the delay. In the event of litigation related to the proposed project, the five year time period will be extended for a period equal to that of the delay, provided such litigation was initiated by parties other than the selected potential lessee or its employees, officers, agents, assigns, shareholders, customers or persons or groups served by or in privity with the potential lessee.

Dated: April 15, 2009.

**Michael J. Ryan,**

*Regional Director*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on April 28, 2009, a proposed consent decree in *United States, et al., v. Occidental Chemical Corp., Pioneer Americas, LLC, Mariana Properties, Inc., Detrex Corp., Sound Refining, Inc. and SRI Acquisition Corp.*, No. 09-cv-5246, was lodged with the United States District Court for the Western District of Washington.

In this action the United States, State of Washington, Puyallup Tribe of Indians and Muckleshoot Indian Tribe sought natural resource damages for releases of hazardous substances into Commencement Bay, Washington. Under the consent decree, defendants will undertake a habitat restoration project in the Hylebos Waterway of Commencement Bay and reimburse \$1,550,000 in natural resource damage assessment costs.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611. In either case, the comments should refer to *United States, et al. v. Occidental Chemical Corp., et al.*, No. 09-cv-5246, D.J. Ref. No. 90-11-2-1049/13.

During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$24.75 (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Section Chief Environmental Enforcement Section, Environment and Natural Resources Division.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on April 17, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301