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Penalties under these rules may depend on the location where a violation occurs. The primary statutory authority for proposing these final supplementary rules is the Federal Land Policy and Management Act (FLPMA). Section 310 of FLPMA (43 U.S.C. 1740) authorizes the BLM to issue rules and regulations to carry out the purposes of FLPMA and other laws applicable to the public lands. Under Section 303(a) of FLPMA, 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, any person who violates any of these final supplementary rules on any public lands may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Also, such violations may be subject to the enhanced fines provided for by 18 U.S.C. 3571. Under the Taylor Grazing Act, any person who violates any of these final supplementary rules on public lands within grazing districts (see 43 U.S.C. 315a), or on public lands subject to a grazing lease (see 43 U.S.C. 315m), may be tried before a United States Magistrate and fined no more than $500. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

Any person who violates any of these final supplementary rules on public lands managed in accordance with the Sikes Act may be tried before a United States Magistrate and fined no more than $500 or imprisoned for no more than six months, or both. Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571.

In accordance with 43 CFR 8365.1–7, state or local officials may also impose penalties for violations of Montana, North Dakota, or South Dakota law.

Gene R. Terland,
State Director, Montana State Office.
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DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Hydroelectric Power Development at Ridgway Dam, Dallas Creek Project, Colorado

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to accept proposals, select lessee, and contract for hydroelectric power development at Ridgway Dam.

SUMMARY: Current Federal policy encourages non-Federal development of environmentally sustainable hydropower potential on Federal water resource projects. The Bureau of Reclamation (Reclamation), in consultation with the Department of Energy, Western Area Power Administration (Western), will consider proposals for non-Federal development of hydropower at Ridgway Dam, a feature of the Dallas Creek Project.

Reclamation is considering such hydropower development under a lease of power privilege. No Federal funds will be available for such hydropower development. 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 Dallas Creek Project is a Federal Reclamation project.

This notice presents background information, proposal guidelines, and information concerning selection of a non-Federal entity to develop hydropower power at Ridgway Dam, and power purchasing and/or marketing considerations.

DATES: A written proposal and seven copies must be submitted on or before 5 p.m. (MST), on Friday, December 3, 2010. A proposal will be considered timely only if it is received in the office of the Area Manager by or before 5 p.m. 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: Send written proposals to Ms. Carol DeAngelis, Area Manager, Western Colorado Area Office, Bureau of Reclamation, 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506, telephone (970) 248–0600.

A copy of the proposal should also be sent at or about the time it is due at Reclamation to: CRSP Manager, Western Area Power Administration, 150 Social Hall Avenue, Suite 300, Salt Lake City, Utah 84111–1534. Western is also available to meet with Reclamation and interested entities to discuss Western’s potential marketing of hydropower.

FOR FURTHER INFORMATION CONTACT: Technical data, including past water release patterns, may be obtained by contacting Mr. Dan Crabtree, Water Management Group Chief, Western Colorado Area Office, Bureau of Reclamation 2764 Compass Drive, Suite 106, Grand Junction, Colorado 81506, telephone (970) 248–0652.

Reclamation will be available to meet with interested entities only upon written request to the Water Management Group Chief at the above cited address. Reclamation will provide an opportunity for a site visit. In addition, Reclamation reserves the right
to schedule a single meeting and/or visit
to address the questions of all entities
that have submitted questions or
requested site visits. Information related
to Western's purchasing and/or
marketing of the power may be obtained
by contacting Ms. LaVerne Kyriss, CRSP
Manager, Western Area Power
Administration, 150 Social Hall
Avenue, Suite 300, Salt Lake City, Utah
84111–1534, telephone (801) 524–6372.
Information related to the operation and
maintenance of Ridgway Dam may be
obtained by contacting Mr. Mike Berry,
Tri-County Water Conservancy District,
P.O. Box 347, Montrose, Colorado
81402, telephone (970) 249–3369.

SUPPLEMENTARY INFORMATION:
The Dallas Creek Project, located near the town of
Ridgway in west-central Colorado on the
Uncompahgre River in the Colorado River Basin, was authorized for
construction (including hydropower) by the Colorado River Basin Project Act of
September 30, 1968 (Pub. L. 90–537), as a participating project under the
Colorado River Storage Project Act of April 11, 1956 (Pub. L. 84–485). The
Tri-County Water Conservancy District (District), under its contracts with the
United States, has certain operation, maintenance, replacement, and
repayment responsibilities and obligations concerning Ridgway Dam.

Reclamation, in consultation with Western, is considering hydroelectric
power development at Ridgway Dam under a lease of power privilege. A lease
of power privilege is an alternative to Federal hydroelectric power
development. A lease of power privilege is a contractual right given to a non-
Federal entity to use a Reclamation facility for electric power generation
consistent with Reclamation project purposes. 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). 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 proposed hydropower development is
environmentally acceptable. Any lease of power privilege at Ridgway Dam
must be in west-central Colorado on
such existing facilities. The lessee (i.e.,
successful proposing entity) would be
required to enter into a contract with the
District to coordinate operation and
maintenance of any proposed
hydropower development with existing
Federal features.

Western would have the first
opportunity to purchase and/or market
the power that would be generated
under any lease of power privilege.
Western would have 60 days from the
date of notification of selection of a
lessee in which to decide whether to
purchase and/or market the power.

All costs incurred by the United
States related to development and
operation and maintenance under a
lease of power privilege, including
NEPA compliance, engineering reviews,
and development of the lease of power
privilege, would be the expense of the
lessee. In addition, the lessee would be
required to make annual payments to the
United States for the use of a
Government facility. Depending on the
economic capacity of the proposed
hydropower development, this amount
will be not less than 3 mills per
kilowatt-hour of generation. If
conditions provide opportunity for
substantial benefits to accrue to the
lessee, then the United States will
benefit proportionally. Also, under the
lease of power privilege, provisions will
be included for inflation of the annual
payment with time. Such annual
payments to the United States would be
deposited as a credit to the Upper
Colorado River Basin Fund.

Proposal Content Guidelines

Interested parties should submit
proposals explaining in as precise detail
as is practicable how the hydropower
potential would be developed. Factors
which a proposal 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, 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. Note: Due to
possible forthcoming modifications at
Ridgway Dam, the available sites for a
powerhouse are presently limited. It is
therefore imperative that any potential
lessee consult with Reclamation to
obtain current information regarding
acceptable potential powerhouse
locations. 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 the 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
entities, and the proposed approach to
wheeling if required. To determine the
marketability of the generated
hydropower, Western requires the
following information: Cost of delivered
generation in $/megawatt-hour,
including any variations in cost (on-
peak, off-peak, seasonal), including
escalation factors and any other charges;
delivery point and voltage of generation
plus any arrangements the lessee has to
wheel power to an alternate location(s);
the daily, weekly, monthly, and annual
pattern of expected generation under
average, wet, and dry hydrological
conditions; ability of generation to
provide ancillary services such as
regulation, spinning reserves, and volt-
ampere reactive support; and
information on the reliability of the
generation, potential maintenance
outage schedule, and duration.

(c) Indicate title arrangements and the
ability for acquiring title to or the right
to occupy and use lands necessary for
the proposed development(s), including
such additional lands as may be
required during construction.

(d) Identify water rights applicable to
the operation of the proposed
development(s), 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 Dallas Creek Project and the environment of 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 Dallas Creek Project feature(s) that are proposed for utilization in the hydropower development under consideration. Define how the hydropower development would operate in harmony with the multiple purposes of the Dallas Creek Project and existing applicable contracts related to operation and maintenance of Dallas Creek Project feature(s) being considered for modification.

(g) Describe plans for assuming liability for damage to the operational and structural integrity of the Dallas Creek Project caused by construction, operation, and/or maintenance of the hydropower development.

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

(i) Provide a management plan to accomplish such activities as planning, design, construction, facility testing, and start of hydropower production. Prepare schedules of these activities as is applicable. Describe what studies are necessary to accomplish the hydroelectric power development and how these would be implemented.

(j) Estimate development cost. This cost should include all investment costs such as the cost of studies to determine feasibility, NEPA compliance, lease of power privilege development, design, construction, facility testing, and start of hydropower production. Prepare schedules of these activities as is applicable. Describe what studies are necessary to accomplish the hydroelectric power development and how these would be implemented.

Select proposed methods of financing the 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, in consultation with Western, will evaluate proposals received in response to this published notice. Reclamation may request additional information from individual proposing entities and/or all proposing entities after proposals are submitted, but prior to making a selection of a lessee.

Reclamation will give more favorable consideration to proposals that (1) emphasize sustainable, low impact, or small hydropower development that avoids, reduces, or minimizes environmental impacts; (2) improve ecosystem function; (3) utilize water and natural resources in an environmentally and economically sound manner; (4) clearly demonstrate that the offeror is qualified to develop the hydropower facility and provide for long-term operation and maintenance; and (5) best share the economic benefits of the hydropower development among parties (including the United States) to the lease of power privilege. A proposal will be deemed unacceptable if it is inconsistent with Dallas Creek Project 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. Through written notice, all preference entities submitting proposals would be allowed 90 days to improve their proposals, if necessary, to be made at least equal to a proposal(s) 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.

Western may market the power available from the project as part of its Salt Lake City Area Integrated Projects (SLCA/IP) or on a stand-alone basis, first to preference entities qualified under criteria established by Western and second to non-preference entities, by developing an individual marketing plan for this power. This marketing plan would be developed through a separate subsequent public process beginning with a notice in the Federal Register of Western’s intent to market the power. The marketing plan would include all aspects of marketing the power, including assignment of power to qualified preference and/or non-preference entities, pricing, transmission, and delivery of power. Western would recover the costs it would incur in purchasing and/or marketing the power through the rates charged for the power. Firm power rates would be established through a public process, initiated by a notice in the Federal Register, separate from the marketing plan.

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 within 60 days of notification of selection of a lessee, 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 two years from the date of such notification to enter into a lease of power privilege for the proposed development of hydropower at Ridgway Dam. Any excessive delay resulting from compliance with the provisions of Federal environmental laws or administrative review by a Federal agency, pertaining to the project, may extend the two-year time period for a period equal to that of the delay. In the event of litigation related to the proposed project, the two-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.


Anamari Gold,
Assistant Regional Director, Upper Colorado Region.