

UNITED STATES OF AMERICA BEFORE THE FEDERAL ENERGY REGULATORY
COMMISSION

Utah Board of Water Resources Lake Powell Pipeline Project, Project No: P-12966-004

FERC docket number: P-12966

MOTION TO INTERVENE FROM THE CENTER FOR BIOLOGICAL DIVERSITY

INTRODUCTION

On December 11, 2017, the Federal Energy Regulatory Commission (FERC) issued a NOTICE OF APPLICATION ACCEPTED FOR FILING, SOLICITING MOTIONS TO INTERVENE AND PROTESTS, READY FOR ENVIRONMENTAL ANALYSIS, AND SOLICITING COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, AND PRESCRIPTIONS [Notice of Application].

In accordance with 18 CFR § 385.214, the Center for Biological Diversity (CBD) hereby moves to intervene and become a party in this proceeding.

COMMUNICATIONS

All correspondence, communications, pleadings and other documents relating to this proceeding should be served upon the following person:

Robin Silver, MD
Co-Founder and Board Member
Center for Biological Diversity
PO Box 1178
Flagstaff, AZ 86002
PHONE: 602-799-3275
FAX: 928-222-0077
EMAIL: rsilver@biologicaldiversity.org

I. IDENTIFICATION OF PARTY

The Center for Biological Diversity is a national, nonprofit conservation organization with more than 1.5 million members and online activists dedicated to the protection of endangered species and wild places.

II. INTEREST OF CBD

This proceeding involves a diversion of Colorado River water to St. George, Utah through a proposed pipeline from Lake Powell through the Grand Staircase-Escalante National Monument. Rights-of-way permit applications to the BLM, Bureau of Reclamation, and

National Park Service are included in its final license application. In addition, “the BLM, Arizona Strip Field Office, St. George, Utah, intends to consider amending a portion of the Arizona Strip Field Office Resource Management Plan to allow development of the Lake Powell Pipeline within the Kanab Creek Area of Critical Environmental Concern.”

The primary purpose of the proposed Lake Powell Pipeline is to bring more water to the City of St. George in Washington County, Utah. St. George is nervous about future water supplies owing to its uncontrolled, unsustainable growth that has already nearly destroyed the Virgin River.

“In 2006, Utah lawmakers feared the skyrocketing population growth in Washington County would exhaust available water supplies in about 15 years, so an alternative source needed to be developed...the political body approved the Lake Powell Pipeline Development Act and authorized state water officials to begin planning for a 139-mile pipeline.”¹

“Maybe we’ll reach the vision of Brigham Young, and it’ll be like the Wasatch Front down here,” [District 73 Rep. Mike] Noel said at the [Washington County Republican Women] luncheon...”²

The Wasatch Front is a metropolitan region in north central Utah including Salt Lake City, Provo, Ogden and Brigham City. Approximately 80% of Utah residents live there.

St. George has already harmed the Virgin River to the extent that the Virgin River watershed is home to more than 80 imperiled species, including the endangered Southwestern Willow Flycatcher, the endangered Woundfin, the endangered Virgin River Chub, and the highly imperiled Virgin River Spinedace. Significant reaches of the Virgin River run nearly dry now because of human use. ***The situation has become so dire, that in 2005, the endangered Woundfin, a silvery blue minnow, became extinct in the wild in its designated Critical Habitat because not enough water was left in the river for the fish to survive and reproduce. Populations are now restocked but then perish due to lack of flow because of excessive water withdrawals by the Washington County Water Conservancy District for St. George. As a consequence, local native fish like the Woundfin, the Virgin River Chub and the Virgin River Spinedace are continually threatened with extinction.

The Center for Biological Diversity has been intimately involved in the preservation of Virgin River dependent species for decades. We are the petitioners for the Virgin River Spinedace and the Southwestern Willow Flycatcher. No other entity represents our interests in these proceedings.

St. George is now focused beyond the Virgin River to the already, struggling, over-allocated Colorado River. The proposed pipeline will remove another 86,000 acre-feet of water from the Colorado River.

But the Colorado River is already in trouble. The current status of the Colorado River is summarized by the number and status of the endangered species which represent the River’s

¹ “A river runs dry: Water and the future of Washington County,” by Amy Joi O’Donoghue, Deseret News, March 28, 2015, <https://www.deseretnews.com/article/865625249/A-river-runs-dry-Water-and-the-future-of-Washington-County.html>.

² “Proposed Lake Powell Pipeline approval inches closer,” by Julie Applegate, April 6, 2017, <https://www.stgeorgeutah.com/news/archive/2017/04/06/jla-lake-powell-pipeline-process-proceeds/#.WIRGi66nGpo>.

health. These species include, Humpback Chub, Razorback Chub, Bonytail Chub, Colorado River Pikeminnow, Southwestern Willow Flycatcher and Yuma Clapper Rail. On the Lower Colorado River (below Lee's Ferry, which is below Lake Powell), Bonytail Chub, and Colorado River Pikeminnow are no longer surviving. The status of the Colorado River and the fate of its dependent endangered species must be examined and included by FERC in any decision affecting their fate.

The Center for Biological Diversity has a long history, several decades, of advocacy for these Colorado River species. No other entity in these proceedings represents our interests with respect to these species and their habitat.

For the record, the tenuous future of the Colorado River has been extensively studied:

“Studies predict that by 2050, the Colorado River’s flow will decrease anywhere from 10 percent to 30 percent. Even currently scheduled water deliveries from the Colorado system will not be sustainable if future climate change reduces runoff by as little as 10 percent.”³

The Bureau of Reclamation observes,

“Looking ahead, concerns regarding the reliability of the Colorado River system to meet future Basin resource needs are even more apparent, given the likelihood of increasing demand for water throughout the Basin coupled with projections of reduced supply due to climate change...”⁴

Brad Udall and Jonathan Overpeck summarize the Colorado River’s perilous situation superbly:

“Climate change threats to western water supplies are very real, and should prompt great concern and urgency among both water managers and the citizens of the Southwest.”⁵

And,

“Using simple but strong relationships derived from hydrology models, which were buttressed by observations, we and our colleagues calculated how river flows are affected by higher temperatures. . .warming could reduce water flow in the Colorado by 20 percent or more below the 20th-century average by midcentury, and by as much as 40 percent by the end of the century.”

In their publication, “The twenty-first century Colorado River hot drought and implications for the future,” in *Water Resources Research*, Udall and Overpeck observe,

“Recently published estimates of Colorado River flow sensitivity to temperature combined with a large number of recent climate model-based temperature projections indicate that continued business-as-usual warming will drive temperature-

³ “In Utah, a massive water project is gaining ground; The project could divert 86,000 acre-feet from Lake Powell to the retirement community of St. George.” Sarah Tory, High Country News, February 23, 2016; <http://www.hcn.org/articles/in-utah-a-massive-water-project-is-gaining-ground>.

⁴ Colorado River Basin Water Supply and Demand Study Report, U.S. Department of the Interior Bureau of Reclamation, December 2012.

⁵ Udall, B., & Overpeck, J. (2017). The twenty-first century Colorado River hot drought and implications for the future. *Water Resources Research*, 53(3), 2404-2418. DOI: 10.1002/2016WR019638.

induced declines in river flow, conservatively -20% by mid-century and -35% by end-century, with support for losses exceeding -30% at mid-century and -55% at end-century... These results, combined with the increasing likelihood of prolonged drought in the river basin, suggest that future climate change impacts on the Colorado River flows will be much more serious than currently assumed, especially if substantial reductions in greenhouse gas emissions do not occur...

...It is imperative that decision-makers begin to consider seriously the policy implications of potential large-scale future flow declines. Stable 20th century Colorado River flow regimes may not reoccur for many centuries – the time scale of climate system readjustment to the complete cessation of greenhouse gas emissions [Solomon *et al.*, 2009; Collins *et al.*, 2013] .”...⁶

The City of St. George’s greedy pursuit of uncontrolled and unsustainable growth is even more sinister when the case against the Lake Powell to St. George pipeline is examined:

“St. George Utah is the most rapidly growing city in the state of Utah, growing 73% from 1990 to 2000. And that is nothing compared to what some experts predict for the future. The problem is that it just happens to be located in the driest county in the second driest state in the country. More remarkably, St. George already has the highest per capita water consumption rate for desert cities in the U.S. and quite possibly the entire nation. Residents use a staggering 335 gallons per person per day. For comparison, Phoenix uses only 170 gallons per person per day, half that of St. George.”⁷

“...The pipeline is unnecessary...says [Utah Rivers Council Executive Director Zach] Frankel. Most of Washington County’s water goes to farmers, but if the projected growth occurs — and if the rest of the West is any indicator — much of that farmland surrounding St. George will give way to development. Which means much of the 100,000 acre-feet of water owned by farmers will be transferred to municipal use. The 2011 Washington County Water District newsletter acknowledges this fact, though it says that supply would only serve 280,000 people. Albuquerque, meanwhile uses that same amount to supply almost double that number of people.

In short, says Frankel, St. George has a lot of less expensive ways to boost its water supplies than building a pipeline. Those alternatives are documented in a May 2015 legislative [audit](#), which found that water conservation is not being implemented as aggressively as in many other Western cities...

Meanwhile, last October, a group of university economists sent a [letter](#) to state lawmakers questioning the viability of the project, arguing that southwest Utah’s

⁶ Udall, B., & Overpeck, J. (2017). The twenty-first century Colorado River hot drought and implications for the future. *Water Resources Research*, 53(3), 2404-2418. DOI: 10.1002/2016WR019638.

⁷ “Lake Powell to St. George Pipeline & Global Warming,” Richard Ingebretsen, Canyon Country Zephyr, April- May 2006; <https://www.canyoncountryzephyr.com/oldzephyr/april-may2006/pipeline.html>.

communities are too small to be able to pay back any debt payments for their portion of the likely \$2 billion price tag...”⁸

“... this study [Review of Water Supply Needs in Washington County] shows that an ample supply of water is available to support future growth in the region without the need to import water from the Colorado River. In fact, only under high population growth scenarios, which far exceed maximum buildout conditions in Washington County, there would be the need to build the Lake Powell Pipeline Project.”⁹

The Lake Powell Pipeline Project proposes a pipeline and structures within the Grand Staircase-Escalante National Monument, the Kanab Creek Area of Critical Environmental Concern, and other BLM, Bureau of Reclamation, and National Park Service public lands. This concerns us deeply. Such abuse of public water and public lands must be evaluated in light of the insult to the public interest that this proposal represents. The Center for Biological Diversity has a long history of public lands advocacy with no one representing our interests in this matter.

III. MOTION TO INTERVENE

As detailed above, CBD has a unique interest in the water resources, endangered and imperiled species, and public lands threatened by this proposed project. For this reason, CBD’s interests cannot be represented by any other party in this matter. CBD’s involvement in this proceeding will promote the public interest and will assure public trust protection of the affected endangered and imperiled species, federal water rights and public lands. Accordingly, CBD respectfully moves to intervene in this proceeding pursuant to 18 C.F.R. § 385.214(b) (3).

V. CONCLUSION

WHEREFORE, CBD requests that the Commission grant CBD’s Motion to Intervene in this proceeding.

Respectfully submitted,

/s/

Robin Silver, MD
Co-Founder and Board Member
Center for Biological Diversity
PO Box 1178
Flagstaff, AZ 86002
Phone: (602) 799-3275
FAX: (928) 222-0077
Email: rsilver@biologicaldiversity.org
Dated: January 11, 2018

⁸ “In Utah, a massive water project is gaining ground,” Sarah Tory, High Country News, Feb. 23, 2016, <http://www.hcn.org/articles/in-utah-a-massive-water-project-is-gaining-ground>.

⁹ Review of Water Supply Needs in Washington County, Utah, Final Report, Hydrosphere Resource Consultants, July 2000; <http://www.riversimulator.org/Resources/Pipelines/WashingtonCountyWaterSupplyReportHydrosphere2000.pdf>.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing upon each person designated on the official service list in this proceeding as compiled by the Secretary of the Federal Energy Regulatory Commission.

Dated at Flagstaff, Arizona this 11th day of January, 2018.

 /s/ —
Robin Silver, MD