

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Utah Board of Water Resources)	Docket No. P-12966
)	Sub Docket No. 004
Lake Powell Pipeline Project)	

LIVING RIVERS & COLORADO RIVERKEEPER MOTION TO INTERVENE IN THE ORIGINAL LICENSING FOR THE LAKE POWELL PIPELINE PROJECT

Pursuant to 18 C.F.R. § 385.214 and the “Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis (REA), and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions,”¹ as modified by the “Notice Suspending Procedural Schedule,”² Living Rivers & Colorado Riverkeeper hereby moves to intervene in the licensing proceeding for the Utah Board of Water Resources’ proposed Lake Powell Pipeline Project (LPPP). Living Rivers & Colorado Riverkeeper (LR/CR) intends to submit comments and recommendations relevant to the environmental analysis by Federal Energy Regulatory Commission’s (FERC), Cooperating Agencies and Tribes, in the near future.

I. COMMUNICATIONS

All correspondence, communications, pleadings, and other documents relating to this proceeding should be served upon the following representatives of Living Rivers and Colorado Riverkeeper:

Living Rivers & Colorado Riverkeeper
John Weisheit
Conservation Director
Sarah Stock
Program Director
PO Box 466
Moab, UT 84532
Phone: (435) 259-1063
Mobile: (435) 260-2590
Fax: (435) 259-7612
eMail: john@livingrivers.org; sarah.livingrivers@gmail.com

¹ Accession no. 20171211-3022; December 11, 2017.

² Accession no. 20180111-3085; January 11, 2018.

II. INTERESTS OF INTERVENOR

Pursuant to 18 C.F.R. § 385.214(b), we describe our respective legal status, purposes, and interests in the proposed pipeline below:

Living Rivers & Colorado Riverkeeper (LR/CR) is a nonprofit organization based along the Colorado River in Moab, Utah, and in the geophysical province of the Colorado Plateau. Moab is the county seat of Grand County and the western county boundary is the left bank of the Green River. Our mission is to promote river restoration through mobilization, by articulating conservation and alternative management strategies to the public. We seek to revive the natural habitat and spirit of rivers by undoing the extensive damage done by dams, diversions and pollution in the Colorado River Basin. LR/CR was founded in 2000 and in 2002 our organization became a licensed and voting member of the Waterkeeper Alliance, which is comprised of more than 350 on-the-water advocates who patrol and protect more than 100,000 miles of rivers, lakes and coastlines on six continents. Our regional members and partners depend on the scarce water resources and the ecosystem values of the Colorado River Basin (CRB).

LR/CR joined a coalition of regional non-profit organizations called Lake Powell Pipeline Coalition (LPPC), which provided scoping comments to FERC on July 7, 2008.³ Additionally, LR/CR provided independent scoping comments to FERC on July 7, 2008.⁴ The LPPC filed as intervenors on January 2, 2008.⁵ On May 6, 2011, LPPC submitted comments regarding the LPPP Study Plans and Draft Study Reports.⁶ The LPPC submitted comments regarding the LPPP Modified Draft Study Reports on March 23, 2012.⁷

III. POSITION

We respectfully petition FERC and Cooperating Agencies require the Utah Board of Water Resources (UBWR) to provide additional information and/or updated information prior to beginning the preparation of the Environmental Impact Statement (EIS), because new information has been revealed since initial scoping began in 2008. We will briefly provide a few examples (below) that support the pressing need for a fresh analysis. More detailed information from our organization is forthcoming.

³ Accession no. 20080707-5206; Citizens for Dixie's Future et al.; July 7, 2008; Citizens for Dixie Future is now known as Conserve Southwest Utah.

⁴ Accession no. 20080915-5031; posted on September 15, 2008.

⁵ Accession no. 20080102-5057; January 2, 2008.

⁶ Accession no. 20110506-5125; May 6, 2011.

⁷ Accession no. 20120323-5005; March 23, 2012.

The Potential For Lower Basin Shortages and Compact Call Have Arrived

In December of 2007 the seven states of the Colorado River Basin (CRB) and the Department of Interior (DOI) signed a Record of Decision (ROD)⁸ called Interim Guidelines to manage possible shortage declarations in the Lower Basin and to avoid a Compact Call in the Upper Basin. The ROD expires on midnight January 1, 2026; mandatory re-consultation of the ROD begins at midnight on January 1, 2021.

In the regional press of December, 2007, the states and DOI exclaimed their confidence that shortage declarations were very unlikely to ever occur between 2008 and 2026, and if shortages did indeed emerge, a cooperative planning document existed to provide equitable solutions. This confidence changed in 2014 to a position that shortages are very likely to occur before 2026.⁹ In February of 2014, the seven basin states began a voluntary process known as Drought Contingency Planning (DCP)¹⁰ and because the then current 24-Month Report¹¹ indicated that reaching the first tier of a shortage declaration (elevation 1075 feet) at Lake Mead appeared imminent. What also changed is the diminishing pool elevation of Lake Powell and the corresponding increase in the odds that a Compact Call for the Upper Basin states would likely occur.¹²

Almost five years have since passed and the present hope is that the DCPs will be signed sometime in 2019. When the DCPs are signed, shortages will indeed occur because the agreed-upon tier to declare a shortage at Lake Mead will rise from 1075 to 1090 feet. The current 24-Month Report confirms this shortage declaration will occur on January 1, 2020.¹³ The assumptions of Colorado River Simulation System modeling used to develop the EIS for Interim Guidelines are not correct. When the Guidelines are formally replaced in 2026, it is almost certain that shortage volumes will increase, as will the volumes for demand management strategies. We respectfully ask FERC to require UWRB to demonstrate their modeling assumptions for LPPP include rigorous scenario planning to assess these risks into a future time-frame of 50-years, and that this analysis be peer-reviewed by a qualified, independent third party.

⁸ 2007 Record of Decision for Interim Guidelines. See: <https://www.usbr.gov/lc/region/programs/strategies/RecordofDecision.pdf>

⁹ High Country News; December, 2014. See: <http://www.livingrivers.org/pdfs/Press/CitiesLookToFarmsForHelpInColoradoRiverDrought.pdf>

¹⁰ Colorado Water Conservation Board. See: <http://www.riversimulator.org/Resources/States/McClowCWCBMemoToStakeholdersFeb2014.pdf>

¹¹ 24-Month Report of February 2014. See: <http://www.riversimulator.org/Resources/USBR/24month/24monthComplete/2014.2.pdf>

¹² KUNC Radio; June, 2018. See: <http://www.livingrivers.org/pdfs/Press/ColoradoRiverManagersSeeApossibleFutureAndItDoesntLookPretty.pdf>

¹³ 24-Month Report of November, 2018. See: <http://www.riversimulator.org/Resources/USBR/24month/24monthComplete/2018.11.pdf>

The Projected Trend in Population Increase in Washington County is Moot

The projected trend for the annual unregulated flow of the Colorado River has been steadily trending downward since the 1922 Compact was negotiated, and there is no evidence in the administrative record to support a claim that this downward trend will reverse itself the next 50-years.¹⁴ If there is evidence, then UWRB is compelled to submit this evidence in the forthcoming review process. The age of abundance is clearly over and water users in the Colorado River Basin water must demonstrate restraint and prepare for curtailments, instead. Utah has the opportunity to demonstrate leadership by redirecting the cost of the pipeline into financing water resiliency programs for their communities. We respectfully ask FERC to require UWRB to provide a water conservation alternative for this review,

Cost of the Lake Powell Pipeline Project is Significantly Underestimated

Based on an example of best management practices to construct the Southern Delivery System in the state of Colorado,¹⁵ we believe the cost and interest payments for the LPPP will approximate 4 billion dollars. The UWRB has stated the cost of the project will range from 1.1 billion to 1.8 billion dollars. We respectfully ask FERC that the UWRB be required to update the projected cost analysis for this project and that the analysis is peer-reviewed by a qualified, independent third party.

Mitigation of the Quagga Muscle Infestation at Lake Powell is Necessary

In 2008, quagga muscle infestations at the forebay of Glen Canyon Dam were suspected to become a possible reality. Ten years later, quagga muscles have been sited throughout the reservoir.¹⁶ The UWRB should provide FERC with a mitigation plan for this problem (Lake Powell to Sand Hollow Reservoir to Virgin River) and explain how much the work plan will cost ratepayers and in the time-frame of 50-years, and that the analysis is peer-reviewed by a qualified, independent third party.

Mitigation of Impaired Water Quality During Low Reservoir Levels at Lake Powell

According to 2007 Interim Guidelines, when Lake Mead reaches elevation 1025 feet, the corresponding level at Lake Powell will be at the bottom of the active pool. The Colorado River and the San Juan River will be incising into the stored sediment

¹⁴ CRB Supply and Demand Study. See: https://www.usbr.gov/watersmart//bsp/docs/finalreport/ColoradoRiver/CRBS_Executive_Summary_FINAL.pdf

¹⁵ Water Finance & Management. See: <http://www.riversimulator.org/Resources/Pipelines/LLP2018/HowColoradoFundedSouthernDeliverySystem.pdf>

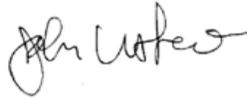
¹⁶ Deseret News. See: <https://www.deseretnews.com/article/900020372/mussel-beach-lake-powell-has-trillions-and-trillions-of-these-things.html>

deposits in the Upper Arms of Lake Powell.¹⁷ The river incision process mobilizes sediment, entrained heavy metals and entrained organic materials, which will seriously degrade water quality standards at the forebay intake of LPPP. We would ask that the UWRB develop a mitigation plan for this hazard and to also provide a cost analysis for this mitigation plan. The analysis should be peer-reviewed by a qualified, independent third party.

IV. CONCLUSION

Living Rivers and Colorado Riverkeeper respectfully request the Federal Energy Regulatory Commission to grant us our Motion to Intervene in this proceeding as a party with full rights to participate in all further proceedings.

Dated: November 16, 2018
Respectfully submitted,



By: John Weisheit _____

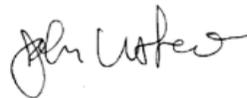
John Weisheit; Living Rivers & Colorado Riverkeeper; Conservation Director; PO Box 466; Moab, UT 84532; Phone: (435) 259-1063; Mobile: (435) 260-2590; Fax: (435) 259-7612; eMail: john@livingrivers.org

DECLARATION OF SERVICE

Utah Water Resources Board and Utah Department of Natural Resources' Division of Water Resources Lake Powell Pipeline Project (P-12966)

I, John Weisheit, declare that I today served the attached Motion to Intervene by Living Rivers & Colorado Riverkeeper in the Original Licensing for the Lake Powell Pipeline Project by electronic mail, or by first-class mail if no eMail address is provided, to each person on the official service list compiled by the Secretary in this proceeding.

Dated: November 16, 2018



By: John Weisheit _____

John Weisheit; Living Rivers & Colorado Riverkeeper; Conservation Director; PO Box 466; Moab, UT 84532; Phone: (435) 259-1063; Mobile: (435) 260-2590; Fax: (435) 259-7612; eMail: john@livingrivers.org

¹⁷ UA News. See: <http://www.livingrivers.org/pdfs/Press/ExposedUpperColoradoRiverDeltalsRapidlyErodingIntoLakePowell.pdf>