

**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

_____)	
Utah Board of Water Resources)	Project No. P-12966-004
_____)	Docket No. EL18-56-000
Lake Powell Pipeline Project)	
_____)	Motion to Intervene
_____)	

**WESTERN RESOURCE ADVOCATES’ MOTION TO INTERVENE IN THE
ORIGINAL LICENSING FOR THE LAKE POWELL PIPELINE PROJECT**

Pursuant to 18 C.F.R. §§ 385.212, 385.214 (2017) Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), and the “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,” eLibrary no. 20171211-3022 (Dec. 11, 2017), as modified by the “Notice Suspending Procedural Schedule,” eLibrary no. 20180111-3085 (Jan. 11, 2018) Western Resource Advocates (“WRA”) hereby moves to intervene in the above-captioned proceeding. WRA intends to submit comments and recommendations relevant to the Federal Energy Regulatory Commission’s and Cooperating Agencies’ environmental analysis at a later date.

In support of its Motion to Intervene, WRA states the following:

I. COMMUNICATIONS

All communications, correspondence, and documents concerning this request should be directed to the following persons:

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II. BACKGROUND

The Utah Board of Water Resources (“UBWR”) submitted an application for a license under the Federal Power Act for the Lake Powell Pipeline Project (“Pipeline”), Federal Energy Regulatory Commission Project No. 12966, on April 30, 2016. The proposed Pipeline would be located in Washington and Kane Counties, Utah, and in Coconino and Mohave Counties, Arizona. Although the Pipeline, if approved, would be licensed to and constructed and operated by UBWR, the water delivered by the Pipeline would be used by the Washington County Water Conservancy District (“WCWCD”) and the Kane County Water Conservancy District (“KCWCD”) (collectively, the “Water Districts”) for municipal and industrial water supply. Under the State of Utah’s Lake Powell Pipeline Development Act, the State of Utah is the direct sponsor of the Pipeline. However, the Water Districts are the ultimate beneficiaries of the Pipeline and would be required to reimburse the State for the costs of developing the Pipeline.

The 140-mile proposed Pipeline would deliver water from Lake Powell, a federal reservoir in Arizona operated by the Bureau of Reclamation, to Sand Hollow Reservoir, near St. George, Utah for eventual distribution to the Water Districts’ municipal and industrial water customers. To

help cover the cover the costs of conveying this water, the Pipeline proposes to include a series of hydroelectric turbines placed along the 89-mile downhill side of the Pipeline.¹ To this end, the Pipeline also proposes to include a pumped storage development in Washington County, Utah. Much of the proposed Pipeline would be located on public lands managed by the Bureau of Land Management.² UBWR plans to sell electricity generated by the Pipeline to regional transmission operators as an incidental purpose of the Pipeline.³

On December 11, 2017 the Federal Energy Regulatory Commission issued its Notice of Application Accepted for Filing, Soliciting Motion to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions (“NREA”).⁴ On December 27, 2017, UBWR petitioned the Commission urging the Commission to declare that the water delivery pipelines are part of the hydropower project and subject the Commission’s jurisdiction under the Federal Power Act.⁵ It concurrently moved for “the Commission to suspend the licensing proceeding immediately, and act expeditiously[.]”⁶ On January 9, 2018 WRA filed an Answer opposing UBWR’s motion for expedited action, and supporting UBWR’s motion for suspension of the procedural schedule.⁷

On January 10, 2018 the Commission issued its Notice of Petition for Declaratory Order, and therein provided all interested parties to make comments and motions or petitions to intervene

¹ Application for Original License, Integrated Licensing Proposal (Public Filing) The Lake Powell Pipeline Project, FERC Project No. P-12966 at A-1 to -2 (April 30, 2016), eLibrary 20160502-5386.

² *Id.*, Draft Plan of Development – Pipeline and Hydro Facilities at 1-4 (describing proposed facilities that would be on land administered by the Bureau of Land Management).

³ *See* Application at ES-7.

⁴ eLibrary 20171211-3022.

⁵ UBWR, “Petition for Declaratory Order on Jurisdiction, Motion for Expedited Action, and Motion for Suspension of Procedural Schedule,” eLibrary no. 20171227-5166 (Dec. 27, 2017), p. 1 (Petition).

⁶ *Id.* at 2.

⁷ eLibrary 20180109-5125.

on or before February 12, 2018. On January 11, 2018 the Commission issued its Notice Suspending Procedural Schedule on the license application until after the Commission issues its decision on UWBR's Petition for Declaratory Order. Pursuant to these instructions, WRA filed a motion to intervene and comments in Project No. P-12966-005.⁸

On September 20, 2018 the Commission issued its Order Denying Petition on Declaratory Order for Jurisdiction.⁹ In that Order, the Commission held that it would license only the hydroelectric generation facilities (“i.e., the generating facilities, primary transmission lines, and any necessary appurtenant structures, such as dams”¹⁰) contemplated as part of the proposed Lake Powell Pipeline project, but not the water conveyance system. The Commission also held that it “will not act as the ultimate decision maker for approving any portion of the overall project beyond the discrete hydropower facilities. In addition, the Commission will not be responsible for determining which alternative route for the water delivery pipeline should be chosen.”¹¹ Finally, the Commission reinstated the comment and filing deadlines as they relate to the Commission's licensing of the discrete hydroelectric facilities as contained in the Commission's December 11, 2017 NREA.¹²

III. WRA's MOTION TO INTERVENE IS APPROPRIATE AND IN THE PUBLIC INTEREST

Western Resource Advocates (WRA) hereby moves to intervene in the above-captioned docket.¹³ WRA is a not-for-profit organization that works to protect the West's land, air, and

⁸ eLibrary No. 20180212-5235.

⁹ Federal Energy Regulatory commission “Order Denying Petition for Declaratory Order on Jurisdiction”, eLibrary No. 20180920-3043 (September 20, 2018).

¹⁰ *Id.* at ¶ 68.

¹¹ *Id.* at ¶ 70.

¹² *Id.* at 71.

¹³ Although the instant Motion only seeks intervention in the proceeding at this time, it reserves the right to submit comments and recommendations relevant to the Federal Energy Regulatory Commission's and Cooperating Agencies' environmental analysis at a later date.

water. We help communities restore rivers, protect aquatic ecosystems, and reduce water pollution through environmentally sustainable management of the West's scarce water resources. Western Resource Advocates is a long-time member of the Upper Colorado River Endangered Fish Recovery Program—a large, multi-stakeholder effort to recover four endangered fish species in the Upper Colorado River Basin. Western Resource Advocates' members and employees are located throughout the arid and semi-arid states of the Interior West. Allowing WRA to intervene in this docket would be in the public interest pursuant to 18 C.F.R. § 385.214(b)(2)(iii) (2017).

WRA represents a diverse group of stakeholders in both Utah and Arizona. WRA and its members have a special interest in protecting, restoring, and enjoying the Colorado River and its tributaries. WRA's team of scientists, lawyers, and economists craft and implement innovative solutions to the most complex natural resource challenges in the region. WRA's work in Utah and Arizona includes finding solutions to those states water needs that do not include large-scale development projects such as the Lake Powell Pipeline. WRA has experience in helping western communities meet their water needs, as well as extensive knowledge of the water delivery systems in the Colorado River Basin.

In 2013, WRA produced a report offering alternatives to Lake Powell Pipeline that would meet southern Utah communities' foreseeable water needs without requiring construction of the Pipeline.¹⁴ WRA continues to seek alternatives to potentially unnecessary and environmentally damaging water development projects in the West. WRA's expertise in helping communities meet their municipal water needs through water conservation, reuse, and water sharing with agriculture, as well as our prior application of this knowledge and advocacy to the proposed Lake Powell Pipeline, gives WRA a vested interest and valuable expertise in water use in southern Utah and

¹⁴ Amelia Nuding, Western Resource Advocates, Local Waters Alternative to the Lake Powell Pipeline (Mar. 13, 2013), eLibrary 20130314-5010.

Arizona. In addition, WRA has already aided FERC's consideration of this Project as evidenced by the Commission's citation to WRA's arguments in its September 20, 2018 order.¹⁵ WRA will be able to further apply its knowledge and experience to the proposed Pipeline, thereby adding value to these proceedings.

IV. CONCLUSION

Western Resource Advocates respectfully requests that its Motion to Intervene in this proceeding be granted.

Dated October 11, 2018

Respectfully submitted,

/s/ Ariel C. Calmes

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¹⁵ eLibrary No. 20180920-3043 at pp. 7, 19, 22-23.

DECLARATION OF SERVICE

Utah Department of Water Resources, Division of Water Resources,
Lake Powell Pipeline Project (P-12966)

I, Ariel Calmes, hereby certify that on this 11th day of October, 2018, I have served a copy of the forgoing **Western Resource Advocates' Motion to Intervene** electronically, or if no email address is provided, by first-class mail per Commission direction upon each person designated on the official Service List.

/s/ Ariel C. Calmes

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