

located at 321 North Mall Drive, Suite B202, St. George, Utah 84790. More than three thousand local residents have supported CSU's mission through donations of money, time, phone calls, letter writing, and other efforts.

CSU is a coalition of citizens advocating for conservation of the area's natural resources, public lands, water, air and cultural resources. We advocate for Smart Growth principles that enable conservation of these resources for the benefit of present and future generations. In recognition of its efforts, it was nominated by Governor Herbert to be on a team of forty water experts state-wide to prepare a fifty-year water strategy.¹ It was a multi-year process, and the strategies were completed last year.

CSU has been studying and commenting on the LPP Project for over ten years.² It has substantial interests in the outcome of the FERC licensing proceeding.

Many CSU members and supporters live near and recreate in areas across the Colorado River Plateau and Great Basin that will be occupied or otherwise affected by the LPP project, if licensed. These areas are particularly valuable due to their character as undisturbed and uninhabited wildlands. They include: Little Creek Mesa and the Little Creek Area of Critical Environmental Concern (ACEC), Kanab Creek ACEC, the Arizona Strip, the Cockscomb, and the Grand Staircase-Escalante National Monument. These areas provide unique opportunities for hiking, camping, trail running, geocaching, mountain biking, appreciation of archaeological resources and natural quiet, journaling, birdwatching, ecosystem research, photography, and more. As stated in the Presidential Proclamation establishing the Grand Staircase Escalante National Monument, this is a "...vast and austere landscape [that] embraces a spectacular array of scientific and historic resources...This unspoiled natural area remains a frontier, a quality that greatly enhances the Monument's value for scientific study."³

We are concerned that the proposed LPP Project would degrade the region's character as wildlands and may contribute to urban sprawl, resulting in traffic congestion, decreased air quality, and increased property taxes and cost of living. Further, many of our members and supporters own or are employed by businesses that depend on the continued protection of these wildlands. These businesses include: outdoor guiding, recreation hard goods, tourism hospitality, real estate, home construction, health and wellness spas, and retirement services (financial planning, and health maintenance).

The LPP Project would increase the diversion from the Colorado River at a time when existing water supply diversions, as well as ecological needs, already result in a functional deficit

¹ <https://envisionutah.org/projects/utah-water-strategy>

² Conserve Southwest Utah (formerly Citizens for Dixie Future) *et al.*, Intervention eLibrary no. 20080102-5057 (1-2-08) "Comments of the Lake Powell Pipeline Coalition on Scoping Document 1 and Pre-Application Document, and Additional Study Requests," eLibrary no. 20080707-5206 (Jul. 7, 2008); Citizens for Dixie's Future *et al.*, "Lake Powell Pipeline Coalition's Comments on Study Plans and Draft Study Reports," eLibrary no. 20110506-5125 (May 6, 2011); Citizens for Dixie's Future *et al.*, "Lake Powell Pipeline Coalition's Comments on Modified Draft Study Reports," eLibrary no. 20120323-5005 (Mar. 23, 2012);

³ Presidential Proclamation 6920 September 18, 1996, "Establishment of the Grand Staircase-Escalante National Monument," available at <http://www.ut.blm.gov/monument/planning-proclamation.php>.

due to over-allocation, declining snowpack and stream flows. We are concerned that the project would worsen water deficits for other beneficial uses of the Colorado River and Lake Powell, and otherwise cause significant, immitigable impacts on such uses.

Nearly all of our members are customers of federal power generated by the U.S. Bureau of Reclamation's (BOR) Colorado River Storage Project at Lake Powell. The power is marketed by the Western Area Power Administration to our local cities and towns. By diverting water from Lake Powell, the LPP would reduce the generation and supply of federal power over a period when the annual flow of the Colorado River is already expected to decline due to climate change. Further, the estimated \$1.4-\$1.8 billion⁴ cost of the proposed LPP, if licensed, would be financed through property taxes, local fees, rates, or assessments. This may result in a significant economic burden on local communities when we have local water supplies that can be managed to meet our growth demands more cheaply.

We will actively participate in this licensing and any related permitting proceedings to assure the protection and enhancement of natural and cultural uses of wildlands, the Colorado River, and other public resources. Such participation is in the public interest pursuant to 18 C.F.R. § 385.214(b)(iii).

III. POSITION

CSU is concerned that the record is incomplete. FERC should require Utah and the other cooperating agencies to provide additional information and/or update the information provided in the record prior to beginning preparation of the draft EIS. In some cases, critical data is completely left out. Without this information in the record decisions based on the draft EIS will be fundamentally flawed.

For example, the Federal Power Act (FPA) requires that fish and wildlife resources be considered in the analysis of this license. Utah presented a draft service contract with the BOR that directly affects endangered fish at a public meeting on December of 2017, more than one year after it filed its license application. This contract proposes releasing water from Flaming Gorge reservoir to supplement water for the Lake Powell pipeline in exchange for increased water flows for endangered fish on the Green River.⁵ After 10 years of analysis, this concept was not identified in FERC's licensing process. There are no studies or detailed information in the record on how this exchange would work to protect the Green River endangered fishes.

CSU is concerned that Utah still has not demonstrated that it has the necessary water rights to implement the water exchange with BOR, or otherwise build the LPP Project. Moreover, Utah wants to exchange an undisclosed, undeveloped seasonal high water right from Green River tributaries with the BOR for water from Flaming Gorge reservoir (FGR). This exchange concept is if Utah can get water out of FRG to develop the LPP they will not capture these undeveloped high water Green River tributary flows, and thus leave the water in the Green

⁴ Revised Draft Socioeconomics Water Resource Economics Study Report No.10 (Modified).

⁵ https://www.usbr.gov/uc/provo/pdf/DRAFT_GR_ExchangeContract.pdf

River for the endangered fishes. But, the seasonal spring high water in the Green River tributaries may not be available to exchange because senior water rights holders, such as the Central Utah Project may already be using them. Moreover, Utah has not disclosed where these undeveloped high water flows are located. More study is needed to verify this amount of water is available to exchange for water for the LPP Project. Thus far, there is nothing in the FERC's study reports that addresses this problem that Utah's water rights for the LPP Project may not be valid or sustainable for the thirty- to fifty-year term of the license.

We are further concerned that Utah's proposed use of water for the proposed LPP project may violate the congressional authorizations of the purposes of Flaming Gorge and Lake Powell reservoirs. This is because the LPP project would draw water from Flaming Gorge reservoir in the Upper Basin and then draw water from Lake Powell and use the water in the Lower Basin, in Washington County, Utah, where the project terminates. Flaming Gorge reservoir waters must be used within its congressionally designated purpose for use in the Upper Basin and not in the Lower Basin.⁶

Moreover, Utah does not provide any information in the study reports on the Green River Basin where the water supply for the LPP project will flow from Flaming Gorge reservoir to Lake Powell reservoir.

Utah's license application does not describe that it needs water for the proposed action from Flaming Gorge Reservoir, or that the proposed exchange of water use with the BOR has to occur to make the LPP project a viable project. Furthermore, the study reports do not describe the resources affected from Flaming Gorge Reservoir to Lake Powell Reservoir such as the endangered Green River fishes.

We are also opposed to the proposed LPP project because there is no demonstrated need for power from the proposed Hurricane Cliffs Pumped Storage Project (PSP) whereby power costs from the project would cost more than what can be purchased on the open market. Utah will not own the PSP, or pay for PSP, therefore PSP should not be included in the cost/benefit analysis in the economic study. The projected PSP cost of nearly \$700 million is not included in the LPP cost of \$1.4-1.8 billion, used by Utah for planning purposes. The PSP is used to justify the LPP project through cost/benefit analysis, which should be rejected. The Commission should direct Utah to revise its application to clarify that the LPP project needs more power than it will produce.

Many changes have occurred since the LPP idea was conceived. The idea for the LPP was proposed in the late 1990s, when the county's 2060 population was projected to be 860,000, when the LPP's costs were estimated to be \$187 M, when the benefits and costs of conservation were relatively unknown, and when the risk of diminishing stream flows in the Colorado River

⁶ Colorado River Storage Project Act was authorized by Congress in 1956; <https://www.usbr.gov/lc/region/g1000/pdfiles/crspuc.pdf>.

was relatively unknown. In 2006, when the Lake Powell Pipeline Act was passed by the Utah legislature the cost was estimated at \$500 million.

Now things have changed: over allocation of the state's water is becoming known, the 2060 population is projected to be about one-third less, the LPP project costs are projected to be at least ten times more (counting, operations, maintenance, and debt service), the benefit and cost of conservation is much better known, and the risk of diminishing water supplies from the Colorado River is much clearer. We believe the prudent course of action is to implement the less costly, less risky, incremental alternative of improved local water management first. It would position our county and the state much better economically.

Information in the record for the LPP project's 2016 study reports is outdated. The LPP project's analyses, projections, and estimates have changed over time and continue to evolve even now. The need for water has changed and the LPP project water will not be needed by 2030, certainly not by 2020 as previously asserted by Utah in the study reports.⁷ There is very little clarity, much less certainty, in previous claims of the project cost, water availability, water supply, and desirability of conservation measures. It is of utmost concern that current data in Utah's studies be updated and made available to those who want a detailed and thorough understanding of this project so that informed decisions can be made before FERC decides the project as ready for environmental review.

The FERC process is challenging; there is no final document on what was changed due to comments. CSU must sort through thousands of pages to find that our comments have only been noted and concerns have been unresolved. Utah's preparation of the study reports for the FERC process has been in disarray as noted in this Tribune article.⁸ Utah didn't even have time to review the consultants' study reports before they were submitted to FERC as they were far behind schedule.⁹ There has been no updated information submitted by Utah to FERC on the Water Needs Assessment and the economic study and this makes commenting very difficult. For these reasons FERC should not greenlight the project for environmental review until Utah and the other cooperating agencies submit the updated information.

IV. CONCLUSION

CSU requests that its Motion to Intervene in this proceeding be granted as a party with full rights to participate in all further proceedings.

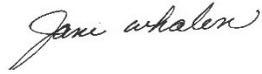
⁷ Washington County Water Conservancy presentation to Utah Executive Water finance Board, June 13,2018. See page 20 at: <https://www.utah.gov/pmn/files/404725.pdf>

⁸ <https://www.sltrib.com/news/environment/2018/01/26/utah-spent-33-million-on-a-pipeline-application-it-never-finished-the-feds-approved-it-anyway/>

⁹ See *id.*

Dated: November 13, 2018

Respectfully submitted,



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DECLARATION OF SERVICE

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

I, Emma Roos-Collins, declare that I today served the attached “Conserve Southwest Utah Motion to Intervene in the Original Licensing for the Lake Powell Pipeline Project” by electronic mail, or by first-class mail if no e-mail address is provided, to each person on the official service list compiled by the Secretary in this proceeding.

Dated: November 13, 2018



By: _____

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