

-----Original Message-----

From: SPKRegulatoryMailbox [mailto:SPKRegulatoryMailbox@usace.army.mil]

Sent: Thursday, June 13, 2019 1:56 PM

To: ericmillis@utah.gov

Cc: McCarthy.Julia@epa.gov; Goldmann.Elizabeth@epa.gov; larry_crist@fws.gov; James Fargo <James.Fargo@ferc.gov>; nthomas@blm.gov; rbaxter@usbr.gov; Staranch@hotmail.com; nmpoe0920@gmail.com; rsberryslc@gmail.com; Wilson, Matthew S CIV USARMY CESP (USA) <Matthew.S.Wilson@usace.army.mil>

Subject: Lake Powell Pipeline Project Comments (SPK 2008-00354) (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Attached please find our comments on your proposed Lake Powell Pipeline (LPP) project. The comments are based upon our review of the materials that you submitted in response to the public and agency comments filed with the Corps on the currently pending 404 permit application, and your response to the Corps' comment letter dated March 15, 2019.

Please provide your responses and any additional information within 30 calendar days from the date of this letter, or request a time extension, to a specific date, and in writing, by that time. Otherwise, we will consider your application withdrawn. Our withdrawal of your application does not preclude you from submitting the requested information, including any additional information you want us to consider, at a later date. Please refer to identification number SPK-2008-00354 in any correspondence concerning this project.

This document was provided on behalf of Mr. Matthew Wilson, Senior Project Manager, Regulatory Division, Sacramento District, U.S. Army Corps of Engineers. If you have any questions, please contact him at the Bountiful Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010-7744, by email at Matthew.S.Wilson@usace.army.mil, or telephone at (801) 295-8380 ext. 8311.

v/r,

Regulatory Division

US Army Corps of Engineers, Sacramento District

1325 J Street, Room 1350, Sacramento, CA 95814-2922

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DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

June 13, 2019

Regulatory Branch (SPK-2008-00354)

Mr. Eric Millis
Utah Division of Water Resources
1594 West North Temple
Salt Lake City, Utah 84116
ericmillis@utah.gov

Dear Mr. Millis:

This letter concerns your proposed Lake Powell Pipeline (LPP) project. The following comments are based upon our review of the materials that you submitted in response to the public and agency comments filed with the Corps on the currently pending 404 permit application, and your response to the Corps' comment letter dated March 15, 2019. Based upon our most recent discussions, the Corps is aware of LPP's ongoing efforts to examine alternatives that could potentially modify the project footprint, to further avoid and/or minimize impacts to waters of the United States. Should LPP proceed with such project modifications, this may result in a withdrawal of the current application, and the revised project would be evaluated in accordance with our program requirements. If the project is modified, some of the comments in this letter may be rendered moot.

Notwithstanding your ongoing efforts to identify additional avoidance and minimization measures, your application for an individual permit remains active, and we are continuing to process that application. Review of the information you have submitted to date indicates that several items are still needed to complete processing of your individual permit application. The information we need to receive in order to complete processing of your application for an individual permit is below.

1. Describe the extent of indirect impacts to downstream reaches of the drainages to be permanently filled/flooded by the forebay and afterbay reservoirs. These downstream reaches could be deprived of water and/or sediments, and those indirect impacts need to be addressed. Provide an assessment of the extent of indirect impacts and a plan to compensate for those indirect impacts.

2. Provide a plan to ensure that invasive quagga mussels (*Dreissena rostriformis bugensis*) would not be transmitted by the LPP to the receiving basin and/or to streams along the proposed route (as a result of leakage or spill), such as Kanab Creek and the Paria River.

3. Provide a plan detailing measures that would be implemented along the pipeline route to minimize impacts to the aesthetic quality of areas along the pipeline alignment.

4. Provide a plan detailing measures that would be implemented to minimize impacts to sensitive habitats that occur along the length of the pipeline alignment/construction corridor. Of specific concern are adjacent aquatic resources, riparian areas, and sensitive desert soils (biological soil crusts).

5. Provide alternatives information sufficient to show compliance with EPA's Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material (40 CFR 230). The 404(b)(1) Guidelines state that no discharge of dredged and/or fill material shall be permitted if there is a practicable alternative which would have less adverse impacts on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose. Practicable alternatives include, but are not limited to: 1) activities which do not involve a discharge of dredged or fill material into waters of the U.S. and 2) discharges of dredged or fill material at other locations in waters of the U.S. If it is an otherwise practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered. Alternatives that we would like to see explored include the following:

a. Western Resource Advocates, Local Waters Alternative, or an alternative that maximizes the viable components of that alternative;

b. LPP without hydroelectric component (i.e. eliminate forebay/afterbay permanent impacts); and

c. LPP that clear-spans stream crossings or uses jack-and-bore or other underground techniques at all or a majority of stream crossings to prevent or reduce temporary impacts.

6. Avoidance and Minimization of Aquatic Resource Impacts: Please provide information demonstrating that the proposed alternative avoids and minimizes aquatic resource impacts to the maximum extent practicable. Potential means to be explored to further avoid and minimize impacts include the following:

a. LPP with smaller hydroelectric component (i.e. smaller forebay/afterbay to reduce permanent impacts and/or alternative pump-storage options that could reduce the size of or need for an afterbay);

b. LPP with forebay/afterbay at alternative locations (to reduce permanent impacts);

c. Clear-spanning stream crossings and/or using jack-and-bore or other underground techniques at stream crossings to avoid temporary impacts wherever possible. These considerations should be evaluated at each proposed crossing, but special emphasis should be placed on the evaluation of these techniques at the larger crossings, such as Kanab Creek and the Paria River. Please note that the crossing of Kanab Creek has

been identified as a specific area of concern for the Arizona Game and Fish Department due to the presence of Speckled Dace (*Rhinichthys osculus*) and breeding amphibians in this area.

7. Provide a detailed restoration plan for stream crossings, including baseline assessment of pre-project conditions, methods to reduce and eliminate impacts during construction, and methods to restore pre-construction contours, hydrology, and vegetation (including riparian buffers, as applicable), to ensure that each restored stream crossing will function at a level comparable to pre-project conditions. Propose a monitoring schedule, monitoring parameters, and performance standards to document successful rectification of temporary impacts. Please ensure the plan distinguishes between what will be needed to restore small crossings versus what will be needed to restore larger crossings (e.g. Kanab Creek and the Paria River).

8. Please submit a final compensatory mitigation plan that describes how you will effectively compensate for direct and indirect impacts to waters of the United States. The plan must be consistent with 33 Code of Federal Regulations (CFR) Part 332, and must include all required elements specified in 33 CFR, Part 332.4(c)(2-14). Please ensure the plan addresses the comments in our letters dated April 6, 2017 and September 20, 2017.

Your plan should include an aquatic resources delineation, design drawings, vegetation plans, including target species to be planted, and final success criteria and should be presented in the format identified in the Final 2015 Regional Compensatory Mitigation and Monitoring Guidelines for the South Pacific Division, which can be found on line at <http://www.spd.usace.army.mil/Portals/13/docs/regulatory/mitigation/MitMon.pdf>.

9. Provide documentation that FERC, as lead federal agency for this project, has determined the LPP to be compliant with Section 106 of the National Historic Preservation Act (Section 106).

10. Provide documentation that FERC, as lead federal agency for this project, has determined the LPP to be compliant with Section 7 of the Endangered Species Act (Section 7).

11. Provide documentation that FERC, as lead federal agency for this project, has fulfilled its tribal coordination and consultation responsibilities.

12. Provide documentation that a Section 401 water quality certification has been issued for this project by the State of Utah.

13. Provide documentation that a Section 401 water quality certification has been issued for this project by the State of Arizona.

You should provide your responses and any additional information within 30 calendar days from the date of this letter, or request a time extension, to a specific date, and in writing, by that time. Otherwise, we will consider your application withdrawn. Our withdrawal of your application does not preclude you from submitting the requested information, including any additional information you want us to consider, at a later date. In that event, we can reactivate and continue processing your application. We encourage you

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to use this opportunity to resolve or rebut objections and to insure all available information is in our administrative record. The decision to issue or deny a Department of the Army permit is our responsibility and we will consider all factors of the public interest in making that decision.

Please refer to identification number SPK-2008-00354 in any correspondence concerning this project. If you have any questions, please contact me at the Bountiful Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010-7744, by email at Matthew.S.Wilson@usace.army.mil, or telephone at (801) 295-8380 ext. 8311. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,

Matt Wilson
Senior Project Manager
Nevada-Utah Section

Enclosures

cc:

Julia McCarthy – USEPA Region VIII (McCarthy.Julia@epa.gov)
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Document Content(s)

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