

 ORIGINAL

UTAH INDEPENDENT POWER  
THE GREEN ENERGY STORAGE COMPANY

FILED  
OFFICE OF THE  
SECRETARY

957 FAIRWAY DRIVE  
SONOMA, CA 95476

2008 MAR 24 P 2:50

FEDERAL ENERGY  
REGULATORY COMMISSION

March 14, 2008

Miss Kimberley D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

P-13146

Re: Application for Preliminary Permit  
Long Canyon Pumped Storage Water  
Power Project

Dear Secretary Bose,

Attached to this letter are the original and fourteen (14) copies of the Application for Preliminary Permit to investigate the feasibility for a pumped storage water power project located in the Long Canyon area in Grand County, Utah. The Utah Independent Power, the Applicant, respectfully requests the Federal Energy Regulatory Commission to review and accept this Application for priority filing.

Sincerely,

  
Frank L. Mazzone, President

Enclosures

Lc-ferc-sec1.f08

**ORIGINAL****(a) INITIAL STATEMENT**FILED  
OFFICE OF THE  
SECRETARY

§ 4.81 (a)(1) through (6)

§ 4.32 (a)(1) and (2)

2008 MAR 24 P 2:50

**BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION**

FEDERAL ENERGY REGULATORY COMMISSION

**APPLICATION FOR PRELIMINARY PERMIT****FOR A****MAJOR UNCONSTRUCTED HYDROELECTRIC POWER PLANT**

§ 4.81 (a)(1)

§ 4.32 (a)(1)

1. Utah Independent Power (the "Applicant"), a corporation organized to do business in the State of Utah, applies to the Federal Energy Regulatory Commission for a Preliminary Permit for the proposed Long Canyon Pumped Storage water power project as described in the attached exhibits. This application is made in order that the Applicant may secure and maintain priority of application for a license for the project under Part I of the Federal Power Act while obtaining the data and performing the acts required to determine the feasibility of the project and to support an application for a license.

The following exhibits are filed herewith and are hereby made a part of this application.

Exhibit 1 -	Description of the Proposed Project.	§ 4.81 (b)
Exhibit 2 -	Description of Studies.	§ 4.81 (c)
Exhibit 3 -	Statement of Costs and Financing.	§ 4.81 (d)
Exhibit 4 -	Maps	§ 4.81 (e)

§ 4.81 (a)(2)

§ 4.32 (a)(2)

2. The location of the proposed project is in the Long Canyon and the Little Valley:

State:	Utah.
County:	Grand.
Nearest Towns:	The nearest town(s) and city (ies) with populations greater than 5000 located within 15 miles of the proposed project site is Moab.

The entities listed below are the principle holders of the water allocations set forth by Congress and the Colorado Compact. These holders of the water allocations have contractual agreements, or have issued water use permits, or some form of legal commitment to supply water from their respective allocation. The users include companies, farms, utilities, cities, city water districts, city water companies, irrigation districts, drainage districts, Indian tribes,

counties, cemeteries, ranches, farms, golf courses, produce companies, county associations, etc.

U.S. Department of Interior  
Bureau of Indian Affairs  
Bureau of Reclamation  
Upper Colorado Commission  
Utah Division of Water Rights  
Grand County

§ 4.81 (a)(3)

3. The exact name, business address, and telephone number of the Applicant are:

Utah Independent Power 707-996-2573  
957 Fairway Drive  
Sonoma, CA 95476

The exact name, business address, of each person authorized to act as agent for the applicant in this application are:

Frank L. Mazzone, President 707-996-2573  
Utah Independent Power  
957 Fairway Drive  
Sonoma, CA 95476.

The Applicant also requests that copies of all pleadings and correspondence be sent to the following parties:

Mr. Paul L. Brinkmann, Esq. 520-779-1050  
Attorney  
702 North Beaver Street  
Flagstaff, AZ 86001

Mr. Joseph E. Tegda, Vice President & Treasurer 702-228-7660  
Utah Independent Power  
3000 Cradle Mountain Drive  
Las Vegas, NV 89134

§ 4.81 (a)(4)

4. Utah Independent Power is a domestic corporation and is not claiming preference under section F(a) of the Federal Power Act

§ 4.81 (a)(5)

5. The proposed term of the requested permit is 36 months.

§ 4.81 (a)(6)

6. There is no existing dam.

## VERIFICATION STATEMENT

I hereby certify that I am familiar with the contents and purpose of the application for preliminary permit herewith filed before the Federal Energy Regulatory Commission, that it is a full and true record in this matter to the best of my knowledge and belief, and that I have the full power and authority to execute the same for the purpose herein described.

IN WITNESS WHEREOF, I have hereunto subscribed this 14<sup>th</sup> day of March, 2008.

Utah Independent Power

By Frank L. Mazzone  
Frank L. Mazzone, President

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

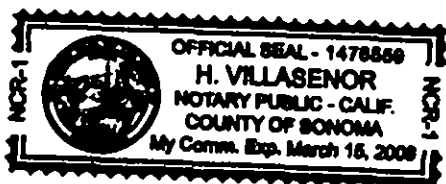
County of SONOMAOn 3-14-08 before me, H. VILLASENOR, NOTARY PUBLIC

Date

Here Insert Name and Title of the Officer

personally appeared FRANK L. MAZZONE

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature

Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**Title or Type of Document: INITIAL STATEMENTDocument Date: 3-14-08 Number of Pages: 3

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Attorney in Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



§ 4.81 (b)

**(b) EXHIBIT 1 - Proposed Project**

§ 4.81 (b)(1)

**1. Dams**

The Project will require two dams. There will be one dam for the upper reservoir located at Little Valley and one dam for the lower reservoir located in Long Canyon.

***Dam for Upper Reservoir***

The dam will be an earth and rock filled with impervious core structure. It will be approximately 130 feet high, 3470 feet long at the crest, and a crest elevation of 6020 feet, M.S.L. The location and design of the spillways are site specific. Refer to Exhibit 4, Figure 2.

***Dam for Lower Reservoir***

The dam will be an earth and rock filled with impervious core structure. It will be approximately 200 feet high, 790 feet long at the crest, and a crest elevation of 4210 feet, M.S.L. The location and design of the spillways are site specific. Refer to Exhibit 4, Figure 2.

***Penstocks, Powerhouses, & Tailraces***

The penstocks and tailraces will be constructed underground to sizes, shapes and configurations based site investigations, optimized hydraulic analyzes, the selected equipment and future studies. The powerhouse, egress, ventilation, safety, and other structures will be subject to site specific conditions and requirements.

The initial engineering investigation suggests the construction of the following underground structures:

Penstocks:	2 - 17 ft. diameter x 22,400 ft. long.
Powerhouse:	750 ft. long x 175 ft. high x 70 ft. wide.
Tailrace:	2 - 19 ft. diameter.

§ 4.81 (b)(2)

**2. Reservoirs*****Upper Reservoir***

The proposed project with the generating capacity of 800 MW for 10 hours per day would require about 10,550 acre-feet of active storage. At maximum pool elevation of 6,010 feet, M.S.L., the surface area of the upper reservoir, will be 310 acres, and volume of 11,550 acre-feet of water.

### Lower Reservoir

The proposed project with the generating capacity of 800 MW for 10 hours per day would require about 9,400 acre-feet of active storage. At maximum pool elevation of 2,400 feet, M.S.L., the surface area of the upper reservoir, will be 100 acres, and volume of 10,400 acre-feet of water.

§ 4.81 (b)(3)

### 3. Transmission

Twin circuit 250 KV transmission lines will be installed. The transmission lines will proceed in a southerly direction from the project for a distance of about 40 miles to the existing transmission line rights-of-way owned by Rocky Mountain Power.

§ 4.81 (b)(4)

### 4. Generation

The generating capacity of the proposed project would be based on the utilities' market requirements. The site is expected to yield a maximum capacity of about 800 MW. This will produce an estimated annual energy of 1,077 GWH. The average operating head would be about 1,855 feet. There would be 3- 267 MW Francis pump turbines and motor generators units installed.

§ 4.81 (b)(5)

### 5. Federal Lands

The Public Lands for the Project are shown on EXHIBIT 1, FIGURE 1, LONG CANYON PUMPED STORAGE PROJECT, PUBLIC LANDS WITHIN THE PROJECT BOUNDARY by quarter-quarter sections tabulated below:

Baseline Reference: Uintah Meridian & Baseline  
Quarter - Quarter Sections

#### Section 7

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NE4SE4	Sec7, T26S, R19E,
SE4SE4	Sec7, T26S, R19E,
SW4SE4	Sec7, T26S, R19E,

#### Section 8

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NW4SW4	Sec8, T26S, R19E,		
NE4SW4	Sec8, T26S, R19E,		
SE4SW4	Sec8, T26S, R19E,	SE4SE4	Sec8, T26S, R19E,
SW4SW4	Sec8, T26S, R19E,	SW4SE4	Sec8, T26S, R19E,

Section 9

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SE4SW4 Sec9, T26S, R19E,  
SW4SW4 Sec9, T26S, R19E,

SE4SE4 Sec9, T26S, R19E,  
SW4SE4 Sec9, T26S, R19E,

Section 10

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SE4SW4 Sec10, T26S, R20E,  
SW4SW4 Sec10, T26S, R20E,

SE4SE4 Sec10, T26S, R20E,  
SW4SE4 Sec10, T26S, R20E,

Section 11

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SE4SW4 Sec11, T26S, R20E,  
SW4SW4 Sec11, T26S, R20E,

SE4SE4 Sec11, T26S, R20E,  
SW4SE4 Sec11, T26S, R20E,

Section 12

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SE4SW4 Sec12, T26S, R20E,  
SW4SW4 Sec12, T26S, R20E,

SE4SE4 Sec12, T26S, R20E,  
SW4SE4 Sec12, T26S, R20E,

Section 7

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NW4SW4 Sec7, T26S, R20E,  
NE4SW4 Sec7, T26S, R20E,  
SE4SW4 Sec7, T26S, R20E,  
SW4SW4 Sec7, T26S, R20E,

Section 18

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NW4NE4 Sec18, T26S, R19E,  
NE4NE4 Sec18, T26S, R19E,  
SE4NE4 Sec18, T26S, R19E,



**Section 17**

NW4NW4 Sec17, T26S, R19E,	NW4NE4	Sec17, T26S, R19E,
NE4NW4 Sec17, T26S, R19E,	NE4NE4	Sec17, T26S, R19E,
SE4NE4 Sec17, T26S, R19E,		
SW4NW4 Sec17, T26S, R19E,	SW4NE4	Sec17, T26S, R19E,

**Section 16**

NW4NW4 Sec16, T26S, R19E,	NW4NE4	Sec16, T26S, R19E,
NE4NW4 Sec16, T26S, R19E,	NE4NE4	Sec16, T26S, R19E,

**Section 15**

NW4NW4 Sec15, T26S, R20E,	NW4NE4	Sec15, T26S, R20E,
NE4NW4 Sec15, T26S, R20E,	NE4NE4	Sec15, T26S, R20E,

**Section 14**

NW4NW4 Sec14, T26S, R20E,	NW4NE4	Sec14, T26S, R20E,
NE4NW4 Sec14, T26S, R20E,	NE4NE4	Sec14, T26S, R20E,
	SE4NE4	Sec14, T26S, R20E,
	SW4NE4	Sec14, T26S, R20E,

**Section 13**

NW4NW4 Sec13, T26S, R20E,	NW4NE4	Sec13, T26S, R20E,
NE4NW4 Sec13, T26S, R20E,	NE4NE4	Sec13, T26S, R20E,
SE4NW4 Sec13, T26S, R20E,	SE4NE4	Sec13, T26S, R20E,
SW4NW4 Sec13, T26S, R20E,	SW4NE4	Sec13, T26S, R20E,

**Section 18**

NW4NW4 Sec18, T26S, R20E,
NE4NW4 Sec18, T26S, R20E,
SE4NW4 Sec18, T26S, R20E,
SW4NW4 Sec18, T26S, R20E,

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§ 4.81 (b)(6)

**6. Use of existing water resources**

The proposed project will utilize water from the Colorado River. The use of this existing water, a renewable resource, as the means to store bulk quantities of low cost electric energy and deliver it to the transmission grid for distribution by the electric utilities. The Project will competitively serve to displace non-renewable fossil fuels and reduce the nation's net air pollution burden.

§ 4.81 (c)

**(c) EXHIBIT 2 - Studies**

The study plan for the proposed project will consist of:

§ 4.81 (c)(1)(i)

**1. General Requirements****Collection of Background Resource Data**

Information on existing water regime, use and quality; fish, wildlife, and botanical resources; historical and archaeological resources; socioeconomic characteristics; geological and soil resources; and land use will be collected. Published information will be relied upon as much as possible. Where necessary, site specific data will be collected.

**Impact Assessment**

The potential impact of the proposed project on each of the resource categories listed above will be assessed. Impacts will be minimized to the degree possible. The impacts which can not be avoided will be determined. Project benefits such as those listed below will also be evaluated.

- increased utilization of an existing renewable resource versus exhaustible fossil fuels.
- enhanced recreational opportunities. The Applicant will contact the Grand County to establish the types and extent of the recreational enhancements which may be added to the Long Canyon site.

**Agency Consultation**

FERC regulations requires the Applicant to enter a three-stage consultation process with the resource agencies and, as needed, with other appropriate entities. In the initial stage of consultation, the Applicant presents preliminary information on project design and proposed environmental studies to the resource agencies. The agencies review this preliminary information and offer comments on the environmental suitability of the project. At this time, the agencies may recommend additional studies they feel are necessary. In the second stage, the studies proposed during the initial consultation are performed and the Applicant prepares a draft license application. The draft application is sent to the agencies for their review and comment. The license application is then modified to reflect the agency comments and submitted as a final application to the FERC. The FERC then reviews the application and, if it is found to be complete, accepts it for filing. The submission of the final license application to the resource agencies who had submitted comments, constitutes the third stage of the consultation process. The Applicant is fully prepared to meet these requirements.

## **Federal Agencies**

United States (Western Area Power Administration)  
 U.S. Department of Interior  
 Bureau of Reclamation  
 Bureau of Land Management  
 Bureau of Indian Affairs  
 National Park Service  
 Fish & Wildlife Service  
 U.S. Corp of Engineers  
 U.S. Coast Guard  
 Federal Aviation Administration  
 U.S. Environmental Administration

## **Other Entities**

Applicable Native American nations  
 Appropriate State agencies

## **Utilities**

In addition to the consultations with the agencies listed above, consultations will be conducted with various power producing entities, such as, independent power producers, utility groups and utilities connected to the Western Systems Coordinating Council (WSCC) grid system. Power purchase and sales agreements will be discussed:

Rocky Mountain Power  
 Pacific power  
 Arizona Electric Power Cooperative  
 Arizona Public Service Company  
 Nevada Power Company  
 Public Service Company of New Mexico  
 Salt River Project, Arizona  
 San Diego Gas and Electric Company  
 Sierra Pacific Resources

§ 4.81 (c)(1)(ii)

## **New Roads**

There are no new roads proposed for the purpose of conducting the studies. Access to the site from center town Moab will be northwest via U.S. Route 191, approx 4+ miles, thence to County Route 279, thence approx 13 ½ miles to the site for the lower reservoir. Refer to Exhibit 4, Figure 1, Location Map.

§ 4.81 (c)(2)

## 2. Work Plan for Dam Construction

§ 4.81 (c)(2)(I)

### Subsurface Investigations

Where applicable, core boring of the foundation overburden and rock formation would be required in the power tunnel, powerhouse, tailrace tunnels, outlet structure, access tunnel, dam, and dikes. Disturbances would be kept at the minimum necessary to get the drill rigs to the locations. The disturbed areas would be regraded and seeded. Test pits would be made in open areas to minimize the disturbance and then each filled and seeded. Laboratory soils and rock tests will be performed to obtain the strength and physical characteristics. No wetlands will be disturbed. Surveys of the boring locations would be required. Topographic maps using aerial photography would be used.

The field study and test program which may alter or disturb lands or waters in the vicinity of the proposed project will be held to a minimum and any information from previous activities will be utilized. But as required, a core drilling program will be performed to determine the suitability of the subsurface conditions which underlay the reservoirs, and the locations of the major civil structures. Cores will be drilled at locations such as, under the center line of the dam structures, the center line of the vertical penstocks and shafts, and along the longitudinal center lines of under ground powerhouses and penstocks. The project would expect to utilize the excavated materials for constructing the dams, and a source of sand/gravel for concrete, however, test pits will dug in open areas to evaluate the soil conditions. Disturbances to the land would be kept to minimum. The bore holes will be plugged and capped, test pits will be filled with native materials and original contours restored.

To the degree possible, access into and out of the project area will be confined to the existing roads and trails.

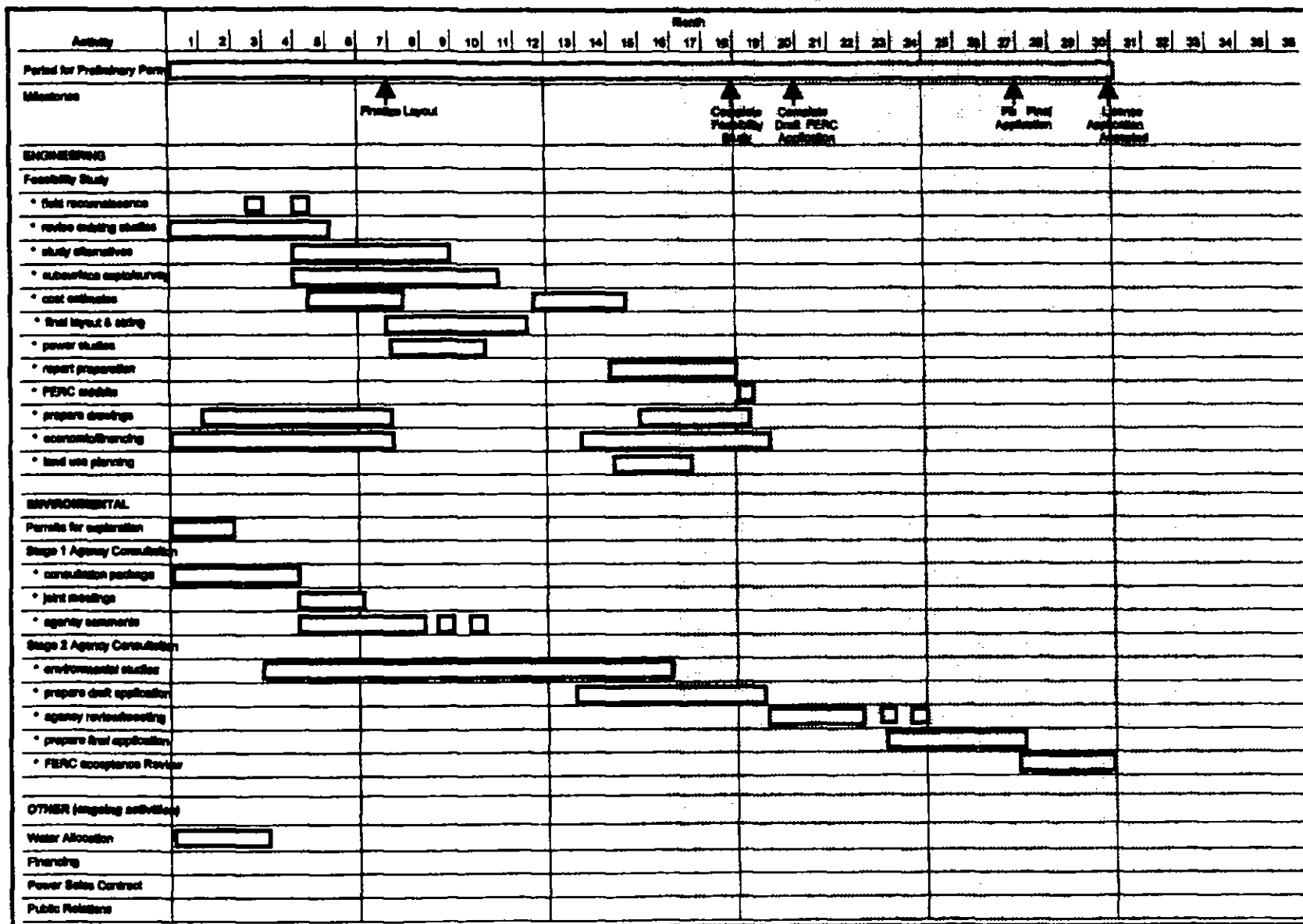
§ 4.81 (c)(2)(ii)

A schedule for the proposed project administrative, engineering, and environmental tasks is shown in Exhibit 2, Figure 1.

Utah Independent Power

**SCHEDULE DURING THE TERM OF THE PERMIT**  
§ 4.81 (c)(2)(ii)

Pumped Storage Project, Long Canyon



25-Jan-08

Exhibit 2, Figure 1

34e4-ech0.123

§ 4.81 (d)

**(d) EXHIBIT 3 - Costs and Financing**

§ 4.81 (d)(1)

**1. Estimated Costs**

The estimated costs of carrying out the major tasks outlined in paragraph © above follows:

§ 4.81 (d)(2)

Task	Approximate Cost
Environmental studies	Jurisdictional
Agency & utility consultation	\$200,000
Site investigation	\$1,600,000
Feasibility study	\$770,000
License Application to FERC	\$75,000
Contingency	<u>\$655,000</u>
Total	\$5,000,000

§ 4.81 (d)(2)

**2. Source of Funds**

The funds for carrying out the above listed tasks will be from the Applicant and other private sources.

§ 4.81 (d)(3)

**3. Market for power**

The market for the power purchased to operate the facility, and for the sale of power generated at the facility would be transmitted by the regional grid.

The power required for pumping would be supplied to the proposed project through the transmission grid using existing off peak power capacity daily and weekends. The power produced during peak periods would be sold through the Western Electricity Coordinating Council (WECC) grid at competitive peak rates, which are connected to the transmission grid system.

§ 4.81 (d)(3)(1)

The potential purchasers of peaking power include the following utilities:

Rocky Mountain Power

Pacific Power

Nevada Power Company

Sierra Pacific Power Company

Arizona Public Service Company

Public Service Company of New Mexico

Salt River Project, Arizona

U.S. Bureau of Reclamation

§ 4.81 (c)

**(d) EXHIBIT 4 - Maps**

§ 4.81 (e)(1)

The project Location Map is shown on Exhibit 4, Figure 1.

§ 4.81 (e)(2)

The Project Features are shown on Exhibit 4, Figure 2.

§ 4.81 (e)(3)(i)

The project is not located at an existing Federal dam.

§ 4.81 (e)(3)(ii)

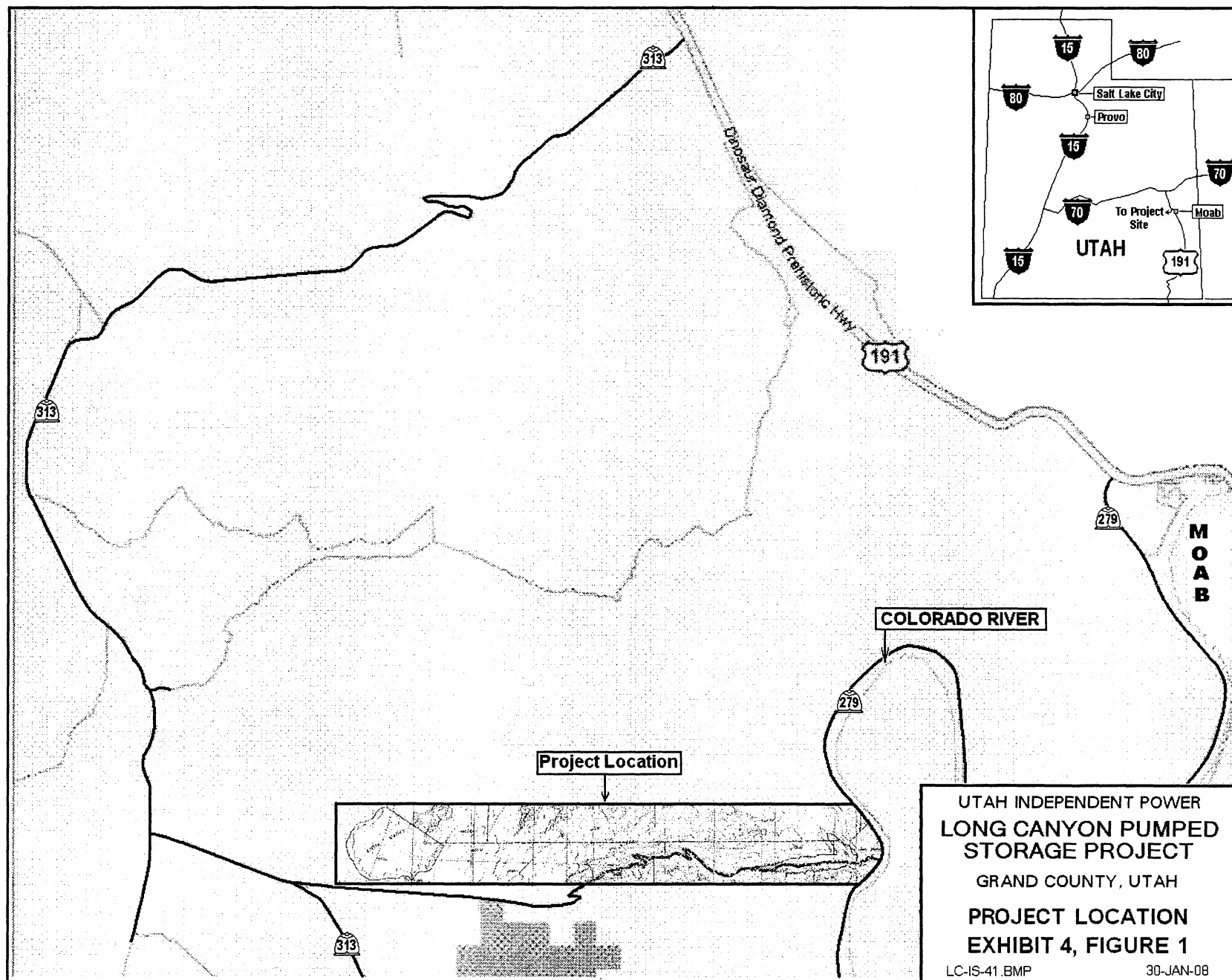
The Public Lands Occupied by the Principal Project Features identified under paragraph (b) (Exhibit 1) are shown on Exhibit 1, Figure 1.

§ 4.81 (e)(4)

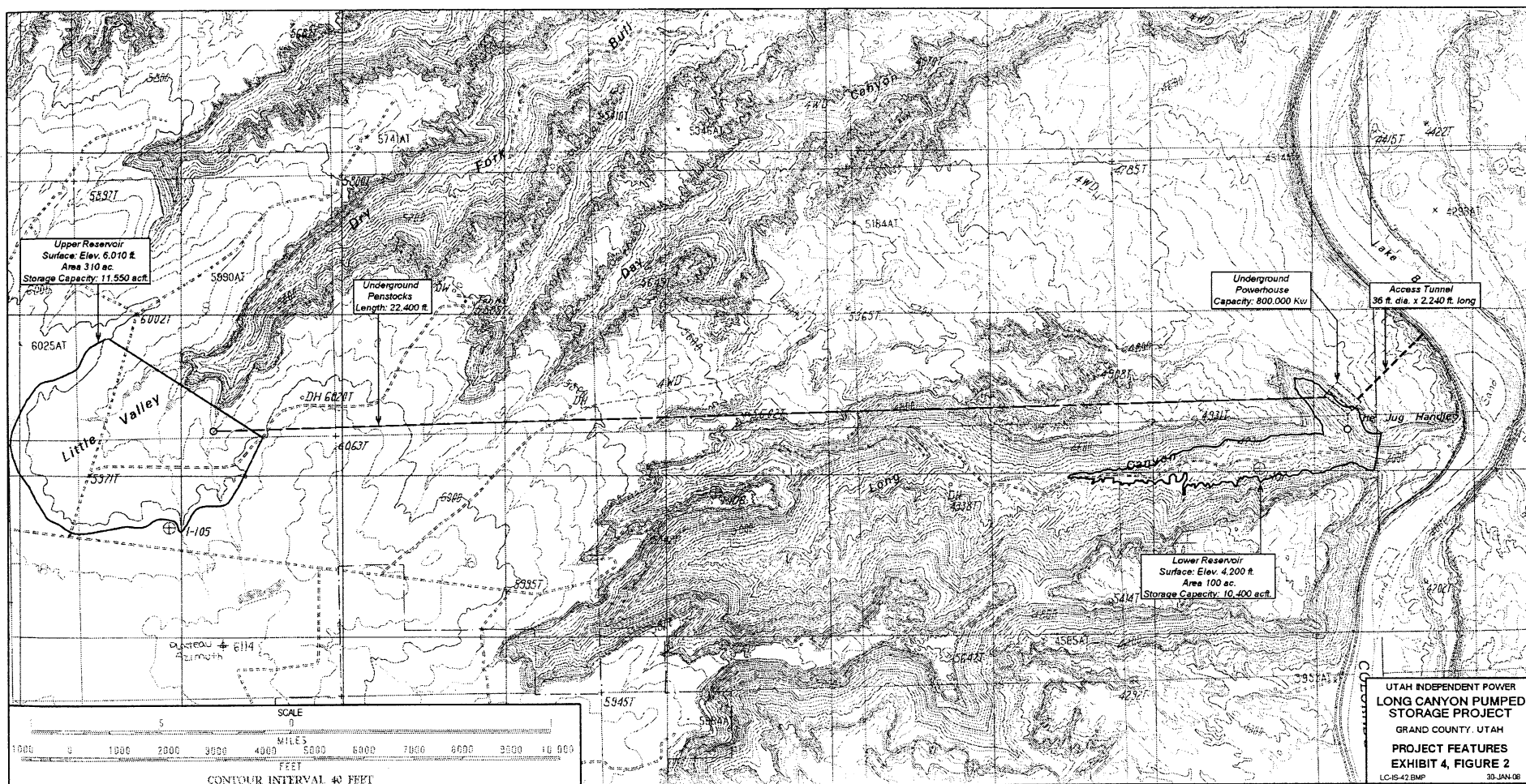
There are no areas within the project boundary that are included in or have been designated for inclusion in the National Wild and Scenic River System.

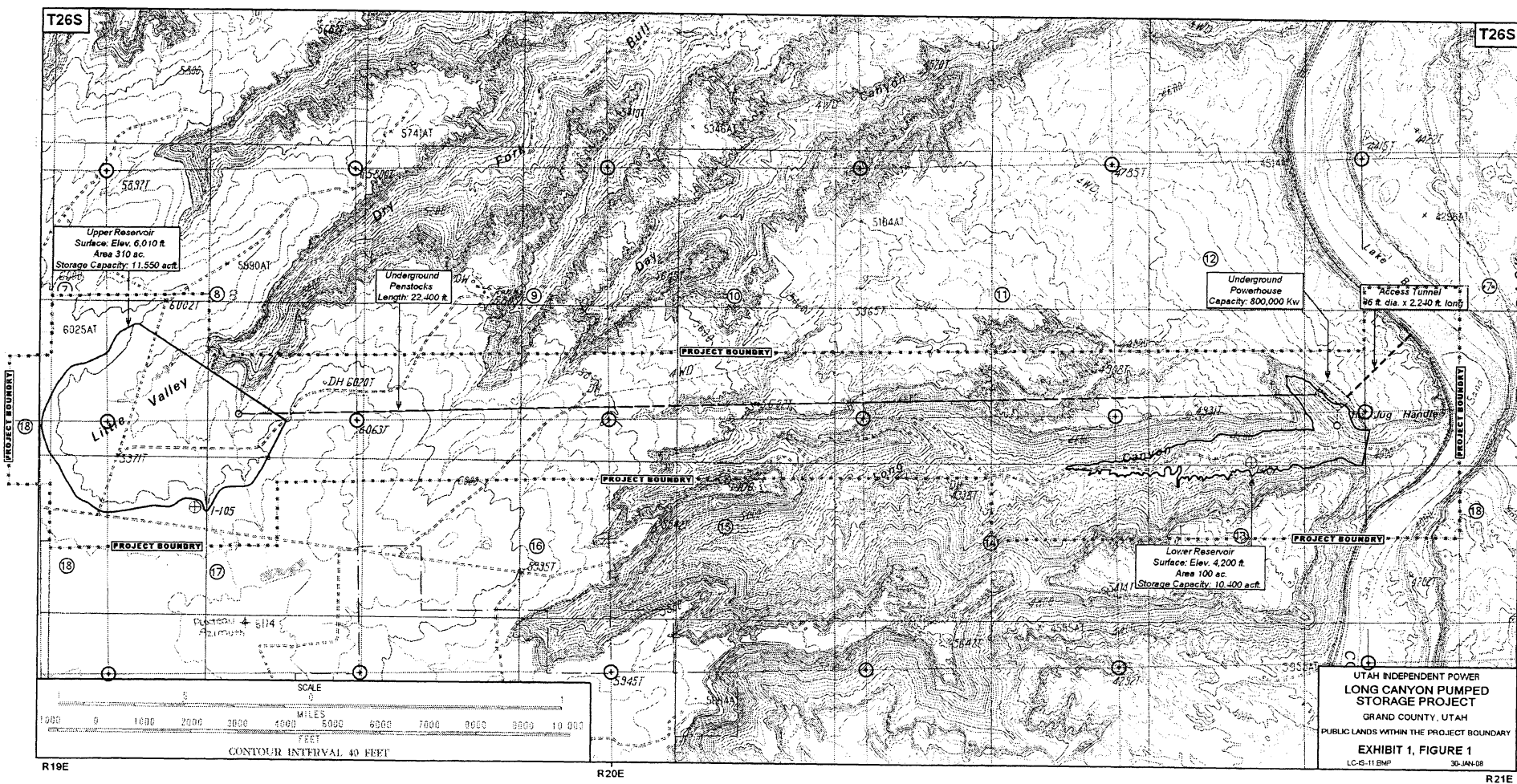
§ 4.81 (e)(5)

There are no areas within the project boundary that have been designated as a wilderness area, recommended for designation as a wilderness area, or designated as a wilderness study area.









UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Utah Independent Power

Project No. 13146-000

Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment,  
Motions to Intervene, and Competing Applications

(July 9, 2008)

On March 24, 2008, Utah Independent Power filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Long Canyon Pumped Storage Project, to be located in the Long Canyon and the Little Valley in Grand County, Utah.

The proposed project would consist of: (1) proposed earth and rock-filled dams, 130-foot-high and 3,470-foot-long and 200-foot-high and 790-foot-long, respectively, for the upper and lower reservoirs which would have water surface elevations of 6,010 and 2,400 feet, MSL, respectively, (2) a proposed powerhouse containing three generating units having a total installed capacity of 800 megawatts, (3) a proposed 22,400-foot-long concrete/steel penstock, a (4) a proposed 40-mile-long, 250-kV transmission line, and (5) appurtenant facilities. The project would have an annual generation of 1,077 gigawatt-hours that would be sold to a local utility.

Applicant Contact: Mr. Frank L. Mazzone, President, Utah Independent Power, 957 Fairway Drive, Sonoma, CA 95476; phone: 707-996-2573. FERC Contact: Tom Papsidero, 202-502-6002.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. For more information on how to submit these types of filings please go to the Commission's website located at <http://www.ferc.gov/filing-comments.asp>. More information about this project can be viewed or printed on the "eLibrary" link of Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13146) in the docket number field to access the document. For assistance, call toll-free 1-866-208-3372.

Kimberly D. Bose,  
Secretary.

Document Content(s)

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UNITED STATES OF AMERICA 125 FERC ¶ 62,027  
FEDERAL ENERGY REGULATORY COMMISSION

Utah Independent Power

Project No. 13146-000

ORDER ISSUING PRELIMINARY PERMIT

(Issued October 07, 2008)

On March 3, 2008, Utah Independent Power (permittee) filed an application for a three-year preliminary permit under section 4(f) of the Federal Power Act (FPA) to study the proposed 800 megawatt (MW) Long Canyon Pumped Storage Project No. 13146.<sup>1</sup> The proposed Long Canyon Pumped Storage Project is to be located in the Long Canyon and the Little Valley in Grand County, Utah.

The proposed project would consist of: (1) two proposed earth and rock-filled dams that are 130-foot-high by 3,470-foot-long, and 200-foot-high by 790-foot-long, respectively, for the upper and lower reservoirs, with water surface elevations of 6,010 and 2,400 feet, MSL, respectively; (2) a proposed powerhouse containing three generating units with a total installed capacity of 800 megawatts; (3) a proposed 22,400-foot-long concrete/steel penstock; (4) a proposed 40-mile-long, 250-kV transmission line; and (5) appurtenant facilities. The project would have an annual generation of 1,077 gigawatt-hours to be sold to a local utility.

Public notice of the application was issued on July 9, 2008. No motions to intervene were filed.

The U.S. Department of the Interior (Interior) filed comments, stating that the U.S. Bureau of Land Management (BLM) has concluded that the proposed Long Canyon Project would not be in conformance with either BLM's current Grand Resource Area Resource Management Plan (RMP) of 1985, or with the Proposed RMP for the Moab Field Office. BLM stated that it would not likely allow rights-of-way within the canyon areas for the proposed project under either of the RMP's. BLM further states that the proposed project would divert water from the Colorado River, and that the permittee would need to consider potential environmental impacts associated with the water

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<sup>1</sup> 16 U.S.C. § 797(f) (2006). The maximum term for a preliminary permit is three years. 16 U.S.C. § 798 (2006).

Project No. 13146-000

- 2 -

diversions at Glen Canyon and Lake Powell. BLM also commented on the effects of the proposed project on scenic, wildlife, federally-listed threatened and endangered species and other valuable resources, and states that, depending on the visibility and nature of the project structures, the proposed project may not be in conformance with the management objectives of the river reaches of the Colorado River that are eligible for Wild and Scenic River status. Interior recommends that the application for a preliminary permit not be approved.

The State of Utah (State) filed comments stating that the proposed project includes federal and state lands that are designated as School Trust Lands, for which the permittee would need permission to utilize. The State is concerned with the project's potential impacts on water rights, water salinity, the geology of the reservoir basins at each of the dam sites, and parks and recreation in the project vicinity.

The Grand County Council Members filed comments on the impacts of the proposed project on the resources in the project area and the inconsistency of the proposed project with the county's current and proposed Resource Management Plan.

Sarah M. Fields filed comments concerning project effects on water rights and water usage in the project area. Katie Kessler filed comments concerning project effects on recreation resources in the project area. David Erley filed comments concerning the cost-effectiveness of the project and its potential effects on the local environment. Carolyn Wright filed comments concerning the impacts of the project on land use and water resources. Pamela Hackley filed comments on the lack of information in the permit application concerning the site selection criteria for the project and the need for the project.

The comments, including those of BLM concerning conformance with RMPs and management objectives for the Colorado River, relate to the construction and operation of the proposed project should it be authorized.<sup>2</sup> Because a preliminary permit neither

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<sup>2</sup> The issuance of a preliminary permit does not violate the Wild and Scenic Rivers Act (WSRA). 16 U.S.C. § 1278(b) (2006). Section 7(b) of WSRA prohibits the Commission from issuing a license for construction of a project on or directly affecting any river designated for study for potential addition to the National Wild and Scenic River System. However, the WSRA contains no prohibition against issuing a preliminary permit for a project that would be located on or would directly affect a study river, much less one that has not yet been designated a study river. *See, e.g., Little Horn Energy Wyoming, Inc.*, 58 FERC ¶ 61,132 (1992); *Sheep Falls Associates*, 34 FERC ¶ 61,196 (1986).

Project No. 13146-000

- 3 -

authorizes construction or operation nor gives the permit holder any property rights, the issuance of a permit in this proceeding will not have any environmental impacts. The question of whether it would be in the public interest to authorize a project at the site is premature at the preliminary permit stage, and will be considered by the Commission at such time that a development application is filed. In the event of such a licensing proceeding, interested entities may comment on whether the Commission should issue a license for the proposed project.

The purpose of a preliminary permit is to maintain priority of application for a license during the term of the permit while the permittee conducts investigations and secures data necessary, after consultation with the appropriate resource agencies, to determine the feasibility of the proposed project, and to prepare an acceptable development application. The permit confers no authority on the permittee to undertake construction of the proposed project or any part thereof, or to occupy or use lands or other property of the United States or of any other entity or individual. Therefore, issuance of the preliminary permit is not a major federal action.

If, during the course of the permittee's investigation into the feasibility of the proposal, the permittee decides to prepare a development application, it must first prepare a Notice of Intent (NOI) and Pre-Application Document (PAD) pursuant to sections 5.5 and 5.6 of the Commission's Regulations.<sup>3</sup> The permittee must use the Integrated Licensing Process unless the Commission grants a request to use an alternative process (Alternative or Traditional Licensing Process). Such a request must accompany the NOI and PAD and set forth specific information justifying the request.<sup>4</sup> Should the permittee file a development application, notice of the application will be published, and interested persons and agencies will have an opportunity to intervene and to present their views concerning the project and the effects of its construction and operation.

A preliminary permit is not transferable. The named permittee is the only party entitled to the priority of application for license afforded by this preliminary permit. In order to invoke permit-based priority in any subsequent licensing competition, the named permittee must file an application for license as the sole applicant, thereby evidencing its intent to be the sole licensee and to hold all proprietary rights necessary to construct, operate, and maintain the proposed project. Should any other parties intend to hold any of these proprietary rights necessary for project purposes during the term of an issued license, they must be included as joint applicants in any application for a license. In such

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<sup>3</sup> 18 C.F.R. §§ 5.5 and 5.6 (2008).

<sup>4</sup> 18 C.F.R. § 5.3 (2008).

Project No. 13146-000

- 4 -

an instance, where parties other than the permittee are added as joint applicants for a license, the joint application will not be eligible for any permit-based priority.<sup>5</sup>

The Director orders:

(A) A preliminary permit is issued for the Long Canyon Pumped Storage Project No. 13146 to Utah Independent Power, for a period effective the first day of the month in which this permit is issued, and ending either 36 months from the effective date or on the date that a development application submitted by the permittee has been accepted for filing, whichever occurs first.

(B) This preliminary permit is subject to the terms and conditions of Part I of the Federal Power Act and related regulations. The permit is also subject to Articles 1 through 4, set forth in the attached standard form P-1.

(C) This order is issued under authority delegated to the Director and constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days from the date of issuance of this order, pursuant to 18 C.F.R. § 385.713 (2008).

William Guey-Lee  
Chief, Engineering and Jurisdiction Branch  
Division of Hydropower Administration  
and Compliance

---

<sup>5</sup> See *City of Fayetteville*, 16 FERC ¶ 61,209 (1981).



**Form P-1 (Revised February 2007)**

**FEDERAL ENERGY REGULATORY COMMISSION**

**TERMS AND CONDITIONS OF  
PRELIMINARY PERMIT**

**Article 1.** The purpose of the permit is to maintain priority of application for a license during the term of the permit while the permittee conducts investigations and secures data necessary to determine the feasibility of the proposed project and, if said project is found to be feasible, prepares an acceptable application for license. In the course of whatever field studies the Permittee undertakes, the Permittee shall at all time exercise appropriate measures to prevent irreparable damage to the environment of the proposed project. All test sites shall be restored as closely as possible to their original condition and to the satisfaction of the Commission's authorized representative or, where federal lands are affected, to the satisfaction of the agency administering such lands.

**Article 2.** The permit is not transferable and may, after notice and opportunity for hearing, be canceled by order of the Commission upon failure of the Permittee to prosecute diligently the activities for which a permit is issued, or for any other good cause shown.

**Article 3.** The priority granted under the permit shall be lost if the permit is canceled pursuant to Article 2 of this permit, or if the Permittee fails, on or before the expiration date of the permit, to file with the Commission an application for license for the proposed project in conformity with the Commission's rules and regulations then in effect.

**Article 4.** At the close of each six-month period from the effective date of this permit, the Permittee shall file four copies of a progress report with the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426; and shall serve a copy on the interveners in this proceeding. The report shall describe, for that report period, the nature and timing of what the permittee has done under the pre-filing requirements of 18 CFR §§ 4.38 and 5 and other applicable regulations; and, where studies require access to and use of land not owned by the permittee, the status of the permittee's efforts to obtain permission therefor.

Document Content(s)

19698140.DOC.....1-5

**FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D. C. 20426**

**OFFICE OF ENERGY PROJECTS**

**Project No. 13146-000--Utah  
Long Canyon Pumped Storage Project  
Utah Independent Power**

**Mr. Frank L. Mazzone  
President  
Utah Independent Power  
957 Fairway Drive  
Sonoma, CA 95476**

**OCT 15 2008**

**Subject: Introductory Letter**

**Dear Mr. Mazzone:**

**Article 4 of the recently issued preliminary permit for the project referenced above requires you to submit a progress report every six months. Enclosed for your convenience is a copy of article 4, which specifies the filing requirements.**

**The first progress report is due on March 31, 2009. Subsequent reports are due every six months. You should send four copies of the reports to:**

**The Secretary  
Federal Energy Regulatory Commission  
ATTN: DHAC, PJ-12.2  
888 First Street, NE  
Washington D.C. 20426**

**Your preliminary permit may be cancelled if you fail to pursue diligently the required consultation and feasibility studies. Any license application for the project must be filed before the permit expires to maintain your priority of application for a license.**

**Please note that, pursuant to section 4.82 of the Commission's regulations, you must submit an application to amend your preliminary permit if you plan to change the project as proposed in your initial application. Also, please be advised that your preliminary permit does not authorize construction of any project works.**

If you have any questions concerning this letter please call Ahmad Mushtaq at (202) 502-8833.

Sincerely,



*W* William Y. Guey-Lee  
Division of Hydropower  
Administration and Compliance

Enclosure: Standard article 4

ORIGINAL

UTAH INDEPENDENT POWER  
957 FAIRWAY DRIVE  
SONOMA, CA 95476  
TELEPHONE: 707-996-2573  
FACSIMILE: 707-996-4311

REC-1106 11:36

March 21, 2009

The Secretary  
Federal Energy Regulatory Commission  
ATTN: DHAC, PJ-12.2  
888 First Street, N.E.  
Washington, D.C. 20426

Subject: FERC Project No. 13146-000  
Long Canyon Pumped Storage Project  
March 31, 2009, Status Report No. 1

Dear Secretary:

In compliance with Article 4 of the Order Issuing Preliminary Permit, four copies of the subject status report are enclosed. .

Sincerely,

  
Frank L. Mazzone, President

Attachments: 1

**UTAH INDEPENDENT POWER**  
**957 FAIRWAY DRIVE** **TELEPHONE: 707-996-2573**  
**SONOMA, CA 95476** **FACSIMILE: 707-996-4311**

bcc:

Paul L Brinkmann, Esq.  
702 North Beaver Street  
Flagstaff, AZ 86001-3103

Mr. Joseph E. Tegda  
Arizona Independent Power, Inc.  
3000 Cradle Mountain Drive  
Las Vegas, NV 89134

**UTAH INDEPENDENT POWER  
LONG CANYON PUMPED STORAGE PROJECT  
FERC PROJECT NO. 13146-000**

**PROGRESS STATUS REPORT NO. 1 - March 31, 2009**

**Prepared by  
UTAH INDEPENDENT POWER**

**March, 2009**

**UTAH INDEPENDENT POWER  
LONG CANYON PUMPED STORAGE PROJECT  
FERC PROJECT NO. 13146-000**

**PROGRESS STATUS REPORT NO. 1 - March 31, 2009**

**TABLE OF CONTENTS**

- 1.0 General Introduction**
- 2.0 Discussion of Permit Acquisition Activities**
- 3.0 Milestone Schedule**
- 4.0 Activities Planned for Next 6 Months**
- 5.0 Consultations Planned for Next 6 Months**
- 6.0 Assessment of Project Feasibility**



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## 1.0 INTRODUCTION AND GENERAL INFORMATION

The proposed pumped storage project is located in Long Canyon and Little Valley, in Grand County, Utah, about fourteen miles west of Moab. The project will consist of: (1) a 130-foot-high dam impounding a 240-acre upper reservoir; (2) two 17-foot diameter, 22,400-foot long underground penstocks connecting the upper reservoir with the powerhouse; (3) a powerhouse containing pumped-turbines with a total capacity of 800 MW; (4) two 19-foot-diameter penstocks connecting the powerhouse to the lower reservoir; (5) a 200-foot-high dam and 200-acre lower reservoir; (6) a transmission line at an undetermined location from 20 miles long to 40 miles long; and (7) appurtenant facilities.

The water requirements are not expected to exceed 14,000 acre-feet for the project initial fill, and 5,000 acre-feet per year for evaporative, water quality control, and ground seepage losses. The Company has contacted the State of Utah agencies for potential sources of water for the Project.

The Company and equity investors recognize that guaranteed long term water supply is required early in the preparation of the feasibility studies and the acquisition of the local permits. The Company efforts to secure such water supply rights will continue.

## 2.0 DISCUSSION OF PERMIT ACQUISITION ACTIVITIES

Since the Project is located in arid Utah, prior to proceeding with any investigations or studies, the Project must first secure long term contractual commitments for a dependable water supply. This activity had started immediately after the Company received the official notification of the issuance of the Preliminary Permit on October 15<sup>th</sup>, 2009.

## 3.0 MILESTONE SCHEDULE

The "Milestone Schedule During the Term of the Project" (Lc-f-sch-1.123), is attached to this Report. To date progress was focused solely on the Company's efforts to acquire the investor(s) and water supply source(s).

## 4.0 ACTIVITIES PLANNED FOR THE NEXT 6 MONTHS

### 4.1 Engineering

An engineering plan and engineering activities will commence upon the receipt of the signed water supply contract.

### 4.2 Environmental

A plan for defining and performing the environmental studies and investigations will commence upon the receipt of the signed water supply contract.

#### 4.3 Other

The Permittee will continue activities to acquire project financing and power sales contracts.

#### 5.0 CONSULTATIONS PLANNED FOR NEXT 6 MONTHS

The preparation of the consultation package for the "Stage 1 Agency Consultations", is scheduled start about September, 2009.

#### 6.0 ASSESSMENT OF PROJECT FEASIBILITY

An engineering plan and engineering activities will commence upon the receipt of the signed water supply contract.

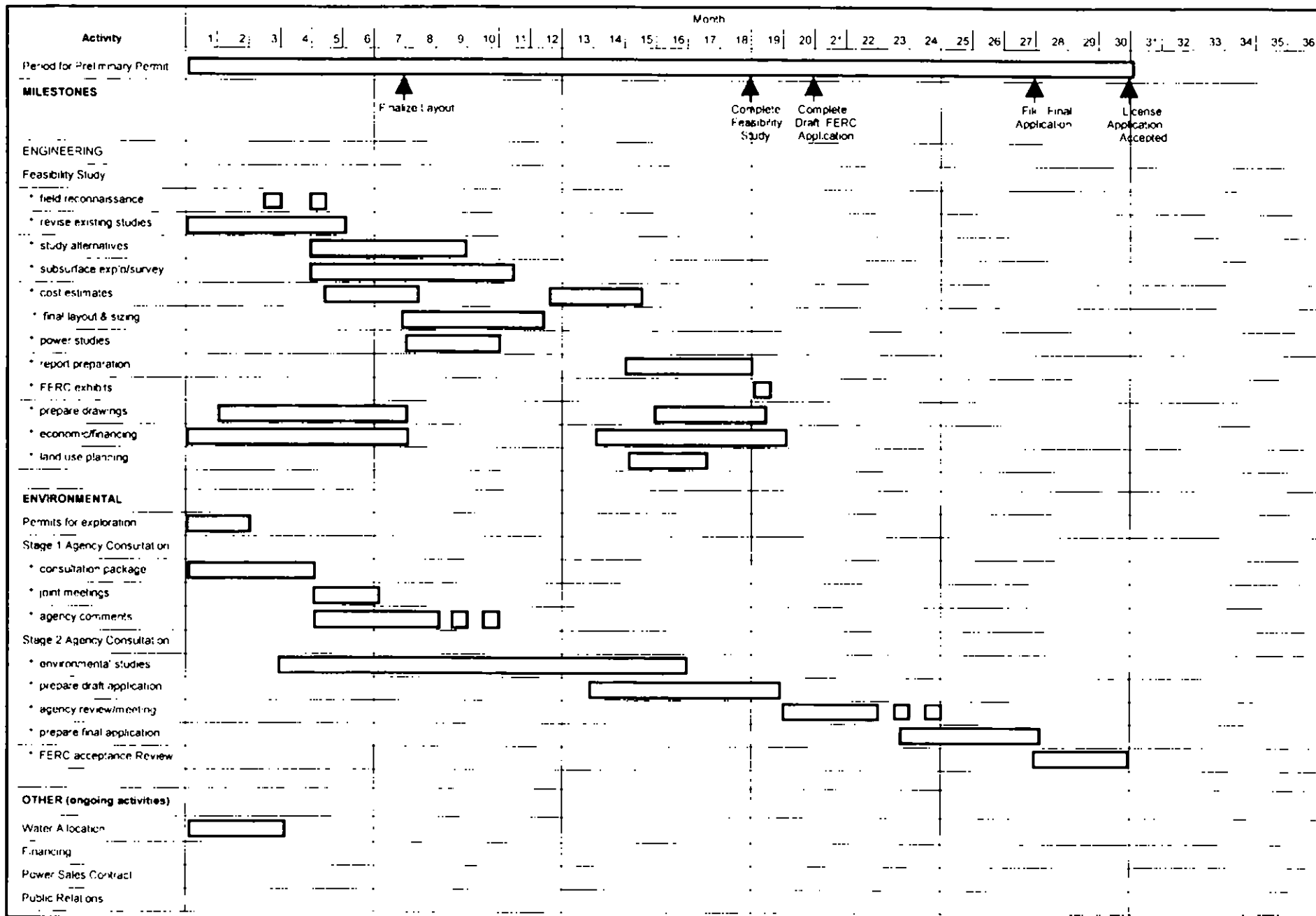
## APPENDIX

Contents: Schedule during term of the Permit.

# SCHEDULE DURING THE TERM OF THE PERMIT § 4.81 (c)(2)(ii)

Utah Independent Power

Pumped Storage Project, Long Canyon



**FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D. C. 20426**

**OFFICE OF ENERGY PROJECTS**

Project No. 13146-000—Utah  
Long Canyon Pumped Storage Project  
Utah Independent Power

Mr. Frank L. Mazzone, President  
Utah Independent Power  
957 Fairway Drive  
Sonoma, CA 95476

MAR 03 2008

**Subject: Acceptance Letter for Preliminary Permit Application**

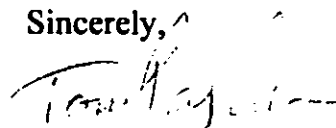
**Dear Mr. Mazzone:**

Your preliminary permit application filed March 24, 2008, for the Long Canyon Pumped Storage Project, has been accepted by the Commission for filing as of March 24, 2008. Federal, state, and local agencies will be informed in the Commission's public notice that a copy of the complete application may be obtained from you.

Within 5 days after you receive this letter, please send one copy of the application to the following: the Commission's San Francisco Regional Office; the Department of the Interior, Office of Environmental Affairs; the U.S. Army Corps of Engineers, and the Bureau of Land Management. A list of their addresses is enclosed.

If you have any questions, please contact me at (202) 502-6002.

Sincerely,



Tom Papsidero  
Division of Hydropower  
Administration and Compliance

cc: Public Files  
Enclosure: List of addresses

LIST OF ADDRESSES

Federal Energy Regulatory Commission  
San Francisco Regional Office  
901 Market Street  
Suite 350  
San Francisco, CA 94103

Department of the Interior  
Office of Environmental Affairs  
Room 2340 MIB  
1849 C Street, NW  
Washington, DC 20240

U.S. Army Corps of Engineers  
South Pacific Office  
1455 Market Street, Fl. 17  
San Francisco, CA 94103-1368

State Director  
Utah State Office  
Bureau of Land Management  
Branch of Lands and Minerals Operations (UT-942)  
ATTN: FERC Withdrawal Recordation  
P.O. Box 45155  
Salt Lake City, UT 84145-0155

ORIGINAL

UTAH INDEPENDENT POWER  
957 FAIRWAY DRIVE  
SONOMA, CA 95476  
TELEPHONE: 707-996-2573  
FACSIMILE: 707-996-4311

September 3, 2009

The Secretary  
Federal Energy Regulatory Commission  
ATTN: DHAC, PJ-12.2  
888 First Street, N.E.  
Washington, D.C. 20426

FILED  
SECRETARY OF THE  
COMMISSION  
SEP 10 A 9 47  
FEDERAL ENERGY  
REGULATORY COMMISSION

Subject: FERC Project No. 13146-000  
Long Canyon Pumped Storage Project  
September 30, 2009, Status Report No. 2

Dear Secretary:

In compliance with Article 4 of the Order Issuing Preliminary Permit, four copies of the subject status report are enclosed. .

Sincerely,

  
Frank L. Mazzone, President

Attachments: 1

**UTAH INDEPENDENT POWER  
LONG CANYON PUMPED STORAGE PROJECT  
FERC PROJECT NO. 13146-000**

**PROGRESS STATUS REPORT NO. 2 - September 30, 2009**

**Prepared by  
UTAH INDEPENDENT POWER**

**September, 2009**

**UTAH INDEPENDENT POWER  
LONG CANYON PUMPED STORAGE PROJECT  
FERC PROJECT NO. 13146-000**

**PROGRESS STATUS REPORT NO. 2 - September 30, 2009**

**TABLE OF CONTENTS**

- 1.0 General Introduction**
- 2.0 Discussion of Permit Acquisition Activities**
- 3.0 Milestone Schedule**
- 4.0 Activities Planned for Next 6 Months**
- 5.0 Consultations Planned for Next 6 Months**
- 6.0 Assessment of Project Feasibility**



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## 1.0 INTRODUCTION AND GENERAL INFORMATION

The proposed pumped storage project is located in Long Canyon and Little Valley, in Grand County, Utah, about fourteen miles west of Moab. The project will consist of: (1) a 130-foot-high dam impounding a 240-acre upper reservoir; (2) two 17-foot diameter, 22,400-foot long underground penstocks connecting the upper reservoir with the powerhouse; (3) a powerhouse containing pumped-turbines with a total capacity of 800 MW ; (4) two 19 -foot-diameter penstocks connecting the powerhouse to the lower reservoir; (5) a 200-foot-high dam and 200-acre lower reservoir; (6) a transmission line at an undetermined location from 20 miles long to 40 miles long; and (7) appurtenant facilities.

The water requirements are not expected to exceed 14,000 acre-feet for the project initial fill, and 5,000 acre-feet per year for evaporative, water quality control, and ground seepage losses. The Company has contacted the State of Utah agencies for potential sources of water for the Project.

The Company and equity investors recognize that guaranteed long term water supply is required early in the preparation of the feasibility studies and the acquisition of the local permits. The Company efforts to secure such water supply rights will continue.

## 2.0 DISCUSSION OF PERMIT ACQUISITION ACTIVITIES

Since the Project is located in arid Utah, prior to proceeding with any investigations or studies, the Project must first secure long term contractual commitments for a dependable water supply. This activity had started immediately after the Company received the official notification of the issuance of the Preliminary Permit on October 15<sup>th</sup>, 2009.

## 3.0 MILESTONE SCHEDULE

The "Milestone Schedule During the Term of the Project" (Lc-f-sch-2.123), is attached to this Report. To date progress was focused solely on the Company's efforts to acquire the investor(s) and water supply source(s).

## 4.0 ACTIVITIES PLANNED FOR THE NEXT 6 MONTHS

### 4.1 Engineering

An engineering plan and engineering activities will commence upon the receipt of the signed water supply contract.

### 4.2 Environmental

A plan for defining and performing the environmental studies and investigations will commence upon the receipt of the signed water supply contract.

#### 4.3 Other

The Permittee will continue activities to acquire project financing and power sales contracts.

#### 5.0 CONSULTATIONS PLANNED FOR NEXT 6 MONTHS

The preparation of the consultation package for the "Stage 1 Agency Consultations", is scheduled start about March, 2010.

#### 6.0 ASSESSMENT OF PROJECT FEASIBILITY

An engineering plan and engineering activities will commence upon the receipt of the signed water supply contract.

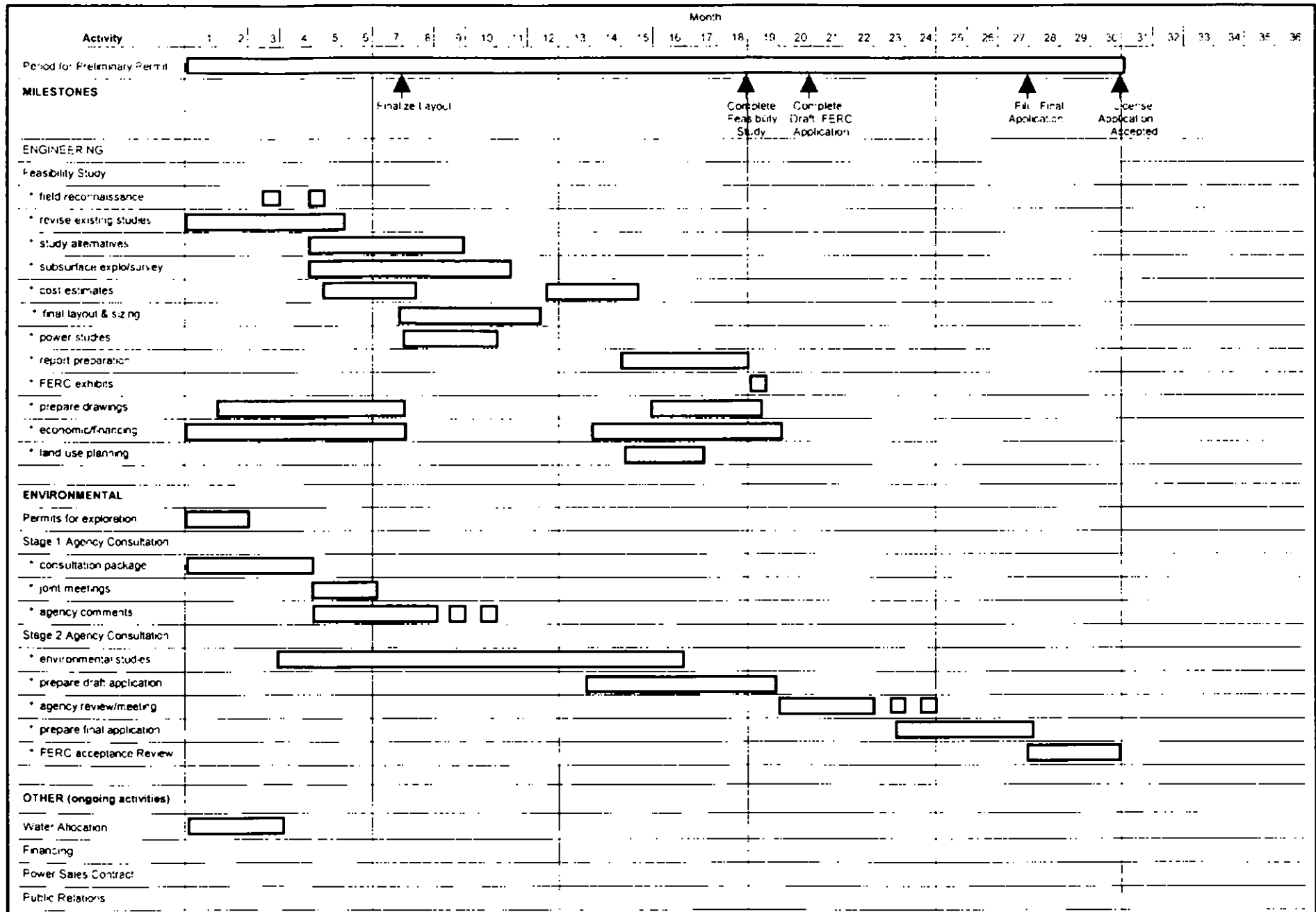
### APPENDIX

Contents: Schedule during term of the Permit.

**SCHEDULE DURING THE TERM OF THE PERMIT**  
**§ 4.81 (c)(2)(ii)**

Utah Independent Power

Pumped Storage Project, Long Canyon



 **ORIGINAL**

**UTAH INDEPENDENT POWER**  
957 FAIRWAY DRIVE  
SONOMA, CA 95476  
TELEPHONE: 707-996-2573  
FACSIMILE: 707-996-4311

March 10, 2010

The Secretary  
Federal Energy Regulatory Commission  
ATTN: DHAC, PJ-12.2  
888 First Street, N.E.  
Washington, D.C. 20426

FILED  
SECRETARY OF THE  
COMMISSION  
2010 MAR 16 A 9:49  
FEDERAL ENERGY  
REGULATORY COMMISSION

Subject: FERC Project No. 13146-000  
Long Canyon Pumped Storage Project  
September 30, 2009, Status Report No. 3

Dear Secretary:

In compliance with Article 4 of the Order Issuing Preliminary Permit, four copies of the subject status report are enclosed. .

Sincerely,

  
Frank L. Mazzone, President

Attachments: 1

**UTAH INDEPENDENT POWER**  
**LONG CANYON PUMPED STORAGE PROJECT**  
**FERC PROJECT NO. 13146-000**  
**PROGRESS STATUS REPORT NO. 3 - March 10, 2010**

**Prepared by**  
**UTAH INDEPENDENT POWER**

**March 2010**

**UTAH INDEPENDENT POWER  
LONG CANYON PUMPED STORAGE PROJECT  
FERC PROJECT NO. 13146-000**

**PROGRESS STATUS REPORT NO. 3 - March 10, 2010**

**TABLE OF CONTENTS**

- 1.0 General Introduction**
- 2.0 Discussion of Permit Acquisition Activities**
- 3.0 Milestone Schedule**
- 4.0 Activities Planned for Next 6 Months**
- 5.0 Consultations Planned for Next 6 Months**
- 6.0 Assessment of Project Feasibility**

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## 1.0 INTRODUCTION AND GENERAL INFORMATION

The proposed pumped storage project is located in Long Canyon and Little Valley, in Grand County, Utah, about fourteen miles west of Moab. The project will consist of: (1) a 130-foot-high dam impounding a 240-acre upper reservoir; (2) two 17-foot diameter, 22,400-foot long underground penstocks connecting the upper reservoir with the powerhouse; (3) a powerhouse containing pumped-turbines with a total capacity of 800 MW ; (4) two 19 -foot-diameter penstocks connecting the powerhouse to the lower reservoir; (5) a 200-foot-high dam and 200-acre lower reservoir; (6) a transmission line at an undetermined location from 20 miles long to 40 miles long; and (7) appurtenant facilities.

The water requirements are not expected to exceed 14,000 acre-feet for the project initial fill, and 5,000 acre-feet per year for evaporative, water quality control, and ground seepage losses. The Company has contacted the State of Utah agencies for potential sources of water for the Project.

The Company and equity investors recognize that guaranteed long term water supply is required early in the preparation of the feasibility studies and the acquisition of the local permits. The Company efforts to secure such water supply rights will continue.

## 2.0 DISCUSSION OF PERMIT ACQUISITION ACTIVITIES

Since the Project is located in arid Utah, prior to proceeding with any investigations or studies, the Project must first secure long term contractual commitments for a dependable water supply. This activity had started immediately after the Company received the official notification of the issuance of the Preliminary Permit on October 15<sup>th</sup>, 2009.

## 3.0 MILESTONE SCHEDULE

The "Milestone Schedule During the Term of the Project" (Lc-f-sch-3.123), is attached to this Report. To date progress was focused solely on the Company's efforts to acquire the investor(s) and water supply source(s).

## 4.0 ACTIVITIES PLANNED FOR THE NEXT 6 MONTHS

### 4.1 Engineering

An engineering plan and engineering activities will commence upon the receipt of the signed water supply contract.

### 4.2 Environmental

A plan for defining and performing the environmental studies and investigations will commence upon the receipt of the signed water supply contract.

#### **4.3 Other**

The Permittee will continue activities to acquire project financing and power sales contracts.

#### **5.0 CONSULTATIONS PLANNED FOR NEXT 6 MONTHS**

The preparation of the consultation package for the "Stage 1 Agency Consultations", is scheduled start about August, 2010.

#### **6.0 ASSESSMENT OF PROJECT FEASIBILITY**

An engineering plan and engineering activities will commence upon the receipt of the signed water supply contract.

### **APPENDIX**

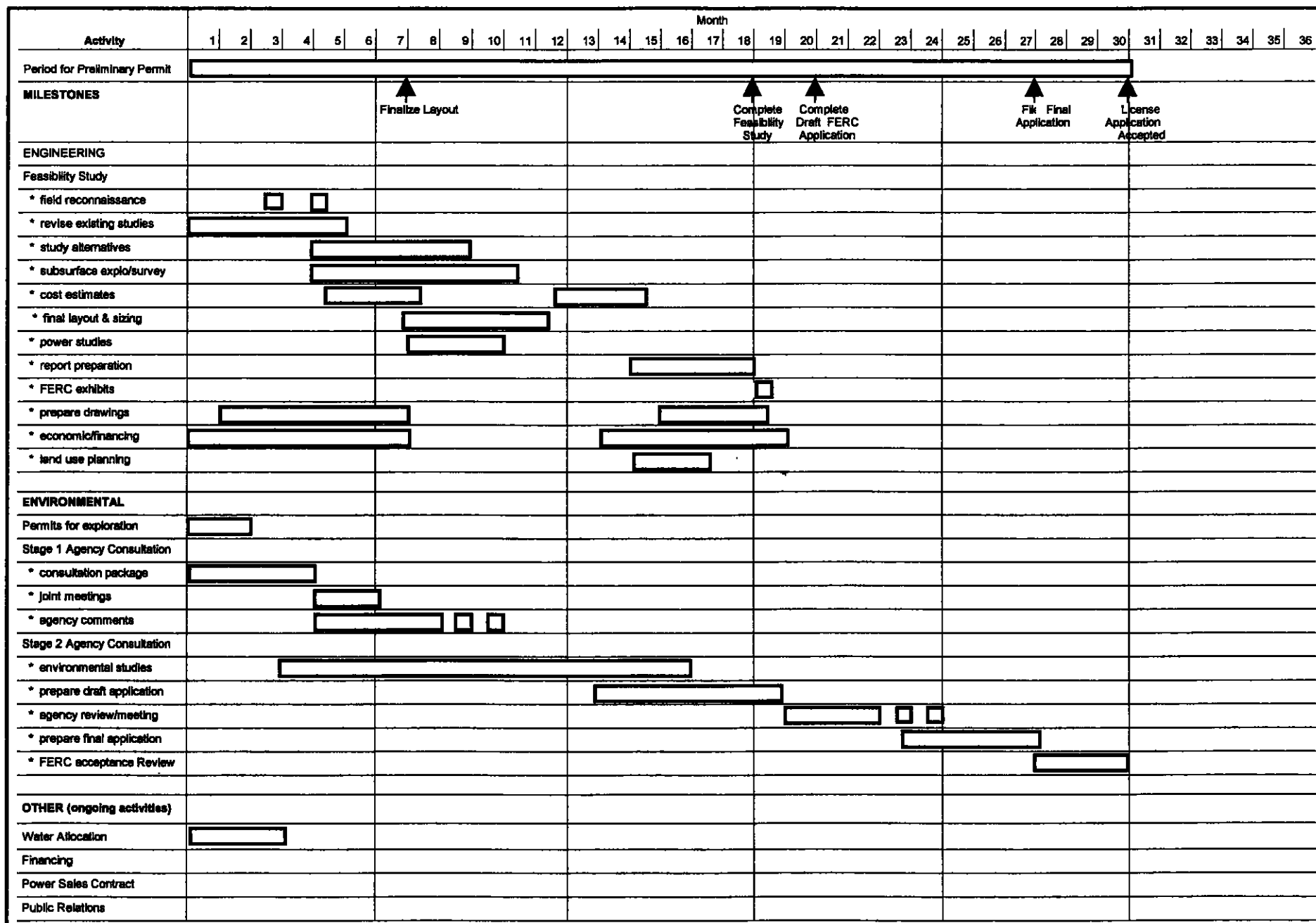
Contents: Schedule during term of the Permit.



**SCHEDULE DURING THE TERM OF THE PERMIT**  
**§ 4.81 (c)(2)(ii)**

Utah Independent Power

Pumped Storage Project, Long Canyon



FEDERAL ENERGY REGULATORY COMMISSION

Washington, D.C. 20426

March 11, 2011

OFFICE OF ENERGY PROJECTS

Project No. 13146-000-Utah  
Long Canyon Pumped Storage Project  
Utah Independent Power

Frank L. Mazzone, President  
Utah Independent Power  
957 Fairway Drive  
Sonoma, CA 95476

**RE: Overdue Progress Report**

Dear Mr. Mazzone

Article 4 of the preliminary permit<sup>1</sup> for the above referenced project requires submittal of a progress report every six months. According to our records, the fourth progress report due September 30, 2010, has not been filed.

The failure to timely file the first progress report warrants the cancellation of the preliminary permit. This letter constitutes notice under section 5 of the Federal Power Act of the probable cancellation of the preliminary permit no less than 30 days from the date of this letter. If you have any questions, please contact Matt Buhyoff at (202) 502-6824 or [matt.buhyoff@ferc.gov](mailto:matt.buhyoff@ferc.gov).

Sincerely,

Timothy J. Welch, Chief  
West Branch  
Division of Hydropower Licensing

cc: Public Files

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<sup>1</sup>124 FERC ¶ 62,027.

Document Content(s)

P-13146-000Letter Fair46.DOC.....1-1

P-13146-002

**UTAH INDEPENDENT POWER**  
957 FAIRWAY DRIVE  
SONOMA, CA 95476  
TELEPHONE: 707-996-2573  
FACSIMILE: 707-996-4311

March 23, 2011

The Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

FILED  
SECRETARY OF THE  
COMMISSION  
2011 MAR 31 A 9:02  
FEDERAL ENERGY  
REGULATORY COMMISSION

Subject: FERC Project No. 13146-000  
Long Canyon Pumped Storage Project  
Surrender of Preliminary Permit

Dear Secretary:

Herewith the Utah Independent Power, Inc. submits formal notice for surrender of the Preliminary Permit, FERC Project No. 13146-000, Long Canyon Pumped Storage Project.

Sincerely,

  
Frank L. Mazzone, President

Document Content(s)

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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Utah Independent Power

Project No. 13146-000

NOTICE OF SURRENDER OF PRELIMINARY PERMIT

(April 7, 2011)

Take notice that Utah Independent Power, permittee for the proposed Long Canyon Pumped Storage Project, has requested that its preliminary permit be terminated. The permit was issued on October 7, 2008 and would have expired on September 22, 2011.<sup>1</sup> The pumped storage project would have been located in the Long Canyon and the Little Valley in Grand County, Utah.

The permittee filed the request on April 4, 2011, and the preliminary permit for Project No. 13146 shall remain in effect through Wednesday, May 4, 2011. New applications involving this project site, to the extent provided for under 18 CFR Part 4 (2010), may be not be filed until Thursday, May 5, 2011.

Kimberly D. Bose,  
Secretary.

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<sup>1</sup> *Utah Independent Power*, 125 FERC ¶ 62,027 (2008).

Document Content(s)

P-13146-000Notice Power.DOC.....1-1

I should like to object most strongly to the two proposed projects (P-13227 and P 13146), which I saw in the Public Notices section of the Moab (Utah) newspaper. Both Long and Bull Canyons are scenic recreation resources that should not be marred by dams, penstocks or turbines. I can truly think of no worse places to locate such a project.

Long Canyon has a scenic road up it, which is used by many thousands of people to view the geology and scenery of the area. It connects the paved highway with Dead Horse Point State Park, Utah's premier state park. It is utilized by mountain bikers as well as those in motorized vehicles. It is the number one destination for those who rent jeeps in Moab. Rock climbers visit it for climbing challenges. It is home to a herd of bighorn sheep, and contains ancient petroglyphs. Films and commercials utilize the canyon for location on a regular basis. Long Canyon is an integral part of the economic makeup of Moab and Grand County, as it is part of the scenery on which our town depends to attract visitors and the filming industry. Tourism provides over 70% of the economy in Grand County.

Bull Canyon (actually Bull Canyon is a tributary of Day Canyon, its actual name as it joins the Colorado River) is located about 2 miles from Long Canyon. Its scenery is very similar, although it does not have a functioning road in it. Bull (Day) Canyon is used by hikers and rock climbers as a tremendously scenic destination just steps from a Utah state highway. It too hosts desert bighorn sheep. As Bull Canyon has permanent water, it is more riparian than Long Canyon. As such, it is home to many more riparian-dependent species, including the endangered southwestern willow flycatcher. Bull (Day) Canyon has several rare desert springs, upon which many animals depend.

One wonders if the proponent of this project did more than look at these locations on a map. Neither of the locations is an appropriate location for peak power production. In addition, the feasibility of the projects should be severely questioned. There is no power source at the end point of the project -- either to supply pumping power or to deliver the created power. I understand the economics of peak power -- but the actual kilowatts that would have to be used to pump the water up would undoubtedly be greater than the power produced (even if it could be utilized in the grid). Has the proponent secured the water rights to the river water? The Colorado River's water rights are fully subscribed.

I could provide more reasons why these two projects are not in the interest of the citizens of Grand County, or even of the nation. Why should publicly-owned scenic treasures enjoyed by many thousands of people be ruined to provide profit for one person? I ask FERC not to proceed with these two projects.

Katie Kessler  
Moab, UT



Document Content(s)

1214.TXT.....1-1

ORIGINAL

To: Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

August 25<sup>th</sup>, 2008

From: David D. Erley  
HC-64 Box 2902  
Castle Valley, UT 84532  
435-259-4859  
[dderley@frontiernet.net](mailto:dderley@frontiernet.net)

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SECRETARY OF THE  
COMMISSION  
2008 SEP -2 P 3:51  
FEDERAL ENERGY  
REGULATORY COMMISSION

## “COMMENTS”

(P-13146)

&amp;

(P-13227)

Dear Ms. Bose and the Federal Energy Regulatory Commission,

I am writing to comment on the proposed Long Canyon Pumped Storage Project and the proposed alternative Bull Canyon Pumped Storage Project both proposed for Grand County, Utah. These projects are proposed by Utah Independent Power.

These projects have many negative impacts that the President of Utah Independent Power has either failed to mention or distorted. I attended a Public Meeting of the Grand County Council on Tuesday, August 19<sup>th</sup>, 2008 where Mr. Frank Mazzone, President of Utah Independent Power, made a presentation to the Grand County Council and attending public. Below I outline these negative impacts and distortions.

- 1) Mr. Mazzone claimed that the project would utilize mostly surplus alternative energy, wind and solar, to pump the water during non-peak times. This claim seems dubious and in all likelihood the power will come from greenhouse-gas emitting, coal burning power plants located in the Four Corners region and near Delta and Huntington, Utah. These plants already cause haze which has health impacts for local citizens and impacts the visibility at the numerous National Parks in the area and our tourist based economy.
- 2) Mr. Mazzone claimed that the project would be 75% efficient electrically. This seems hard to believe due to the pumping needed to raise the water during non-peak hours. Local electrical experts have indicated that even a 50% efficiency would be good and possibly not attainable. These numbers do not include transmission loss both for the power needed to raise the water and the power generated. Both incoming and outgoing power will need to travel 40 miles each way on spur power lines besides then making the long journey over the regional grid to large electrical markets. Additionally, due to significant evaporation, approximately 36" per year for the area, the project will require additional pumping from the Colorado River that is not included in the calculations.
- 3) There was no mention of evaporation and seepage into the porous sandstone that the reservoirs would be located in. Mr. Mazzone mentioned that the project would

generate 1/3 the power of the Glen Canyon Dam powerhouse but neglected to mention any of the problems associated with that project. The seepage will be significant and is an issue not only for water loss but also dam stability. I calculated the evaporation from the two reservoirs at 1,170 acre feet per year. I believe this is a conservative estimate and does not include seepage. It is my belief that the downstream users of the Colorado River (Nevada, St. George, Utah proposed tunnel, Arizona, and California as well as the Imperial Irrigation District) will be very concerned about this frivolous waste of the precious water resource on the already over-allocated Colorado River. Many of these downstream users came to the aid of Moab, Utah in the community's battle to get appropriations for the removal of the Atlas Uranium Processing Mill's tailings pile from the banks of the Colorado River. It is reasonable to assume that if this project proceeds, these same allies will be brought to battle at the national level to help stop it.

- 4) The area proposed is adjacent to Dead Horse Point State Park which is one of the gems of the Utah State Park system. It is also near Canyonlands National Park and Long Canyon is a popular backcountry travel route for off-road vehicles traveling from these parks to the nearby off-road vehicle mecca of Moab..
- 5) These canyons are home to Desert Bighorn sheep and probably Mexican Spotted Owls. Both species are either threatened or endangered. Again, this project will have to overcome significant obstacles from this perspective.
- 6) The area receives significant summer storms which result in flash flooding. Castle Valley located less than forty miles away received 2 inches of rain in 45 minutes on August 19<sup>th</sup> of this year. This storm caused extensive damage and is an indication of the engineering obstacles this project faces. Is Utah Independent Power really up to the challenge. What is their track record? What kind of damage would be caused downstream by a dam failure in the Cataract Canyon section of Canyonlands National Park. This is a popular white water rafting section of the Colorado River and an important part of Grand County's tourist based economy.
- 7) Finally, Mr. Mazzone asserts that the project will bring 2,200 jobs for five years. Where will these workers live? If they displace the lower income seasonal workers who keep our long-term tourism based economy alive, where will these lower income workers live? Affordable housing is pretty much the biggest economic problem in our isolated community. We have Navajo maids and dishwashers commuting five hours each day from Montezuma Creek to work remedial jobs in Moab. This is no small problem and one that needs to be thoroughly researched.

Mr. Mazzone and his assistant could barely operate the computer to run their Power-Point presentation. How are we supposed to believe that they can oversee a project of this magnitude with its myriad of negative impacts and its significant engineering obstacles. Please put an end to this debacle before it even goes into the preliminary planning process. Thank you for your time and expert analysis.

Sincerely,



David D. Erley

ORIGINAL



## State of Utah

JON M. HUNTSMAN, JR.  
*Governor*GARY R. HERBERT  
*Lieutenant Governor*Office of the Governor  
PUBLIC LANDS POLICY COORDINATIONJOHN HARJA  
*Director*FILED  
SECRETARY OF THE  
COMMISSION

2008 SEP 17 P 2:30

FEDERAL ENERGY  
REGULATORY COMMISSION

August 26, 2008

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

SUBJECT: Long Canyon and the Little Valley in Grand County Project No. 13146-000  
RDCC Project No. 08-9589

Dear Ms. Bose:

The State of Utah appreciates the opportunity to comment on this Preliminary Permit Application for the Long Canyon Pumped Storage Project, to be located in the Long Canyon and the Little Valley in Grand County, Utah, near the Colorado River.

The proposed project would consist of: (1) proposed earth and rock-filled dams, 130-foot-high and 3,470-foot-long and 200-foot-high and 790-foot-long, respectively, for the upper and lower reservoirs which would have water surface elevations of 6,010 and 2,400 feet, respectively, (2) a proposed powerhouse containing three generating units having a total installed capacity of 800 megawatts, (3) a proposed 22,4000-foot-long concrete/steel penstock, a (4) a proposed 40-mile-long, 250-kV transmission line, and (5) appurtenant facilities. The project would have an annual generation of 1,077 gigawatt-hours that would be sold to a local utility.

The comments and concerns raised below are raised through analysis of and adherence to the provisions of law, regulation, good governance, and common sense. The state recognizes impact analyses as a dynamic process that will continue into the future, and reserves the right to supplement these comments as necessary. The state looks forward to consideration and resolution of these issues as the Federal Energy Regulatory Commission (FERC) considers the proposal.

***Property Rights/School Trust Lands:***

FERC's Standard Article 5 requires the proponent to acquire and retain title in fee to, or the right to use in perpetuity, project properties sufficient to accomplish all project purposes. The lands proposed for the Long Canyon Pump Storage Projects are a mix of federal and state land. The applicant has made no effort to obtain permission to utilize School Trust Lands, not only for the project itself, but for any preliminary studies or investigations.

As stated in Exhibit 1 of UIP's Application for Preliminary Permit, the project boundaries include real property located in Grand County, Utah, including Section 16 of Township 26 South, Range 20 East, SLB&M ("Section 16"). Section 16 is a parcel of state school trust lands granted to the State of Utah by Congress for the support of public education pursuant to the Utah Enabling Act, ch. 138, 28 Stat. 107. SITLA manages the parcel on behalf of the State of Utah subject to mandates imposed by the Utah Enabling Act, the Utah Constitution, and state law. See Title 53C of the Utah Code Annotated (1994) and UT Const. art. XX. Any disposition of school trust lands must conform with all constitutional and statutory requirements.

SITLA has not authorized any use of Section 16 by UIP. UIP has not submitted an application to lease or purchase the parcel in accordance with the statutory and regulatory framework governing school trust lands. UIP has not contacted SITLA with a request to lease Section 16 for any purpose. UIP has no legal right to use school trust lands without SITLA's consent, not only for the project itself but also for any preliminary studies or investigations.

UIP has no authority to condemn state lands for its private purpose under the Federal Power Act, 16 U.S.C. 814, in derogation of the purposes of the land grants made by Congress to the State of Utah through the Utah Enabling Act. Even if 16 U.S.C. 814 is applicable, that statute requires UIP to make a bona fide offer to acquire Section 16 from SITLA. *Marseilles Hydro Power, LLC v. Marseilles Land & Water Company*, 518 F.3d 459 (7<sup>th</sup> Cir. 2008). No offer, or indeed any contact at all, has been made by UIP. UIP has no legal authority to utilize Section 16 in any way.

All other issues relating to the project are of little consequence and all absent the right to access and use lands within the project area. The state encourages FERC to withhold further action on the Long Canyon Pump Storage projects unless and until the applicant demonstrates a legally valid and perpetual right to use all necessary lands.

***Water Quality, Rights and Resources:***

According to Form L-1, Federal Power Commission Terms and Conditions of License for Constructed Major Project Affecting Lands of the United States: "Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a

This potential problem should be evaluated and it should be determined how it will be handled.

These initial project investigations should include an evaluation of the geology of the reservoir basins and each of the dam sites. The ability of the reservoir basins to adequately hold water should be thoroughly investigated. Also the dam sites need to be evaluated to insure that safe structures can be constructed at each location.

### ***Scope of the Project:***

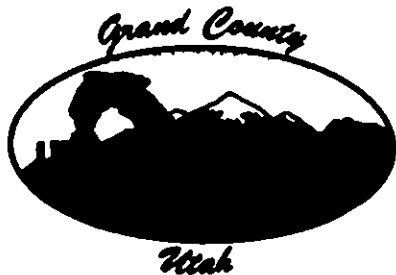
As indicated in the Notice of Proposed Permit Applications, the scope of the project appears limited to the lands in or around the proposed reservoirs. The project should be defined to include lands containing all necessary and associated infrastructure, including necessary mitigation sites. Project proponents propose to construct multiple 250 kV transmission lines. The utility corridor necessary for these transmission facilities should be considered part of the project in order to ensure that FERC retains jurisdiction needed to protect, mitigate, and enhance resources adversely affected by the project.

Similarly, the project boundaries should be drawn to include all facilities in or adjacent to the Colorado River and any potential mitigation site likely associated with the project.

### ***Parks and Recreation:***

Viewshed and Natural Landscape Impacts - The State of Utah and the National Park Service have made great efforts to limit the intrusion of manmade facilities on the natural landscape of the area.

- a) The upper reservoir would mar the view and diminish the experiences of visitors to the area. The reservoir would be visible to all who visit Dead Horse Point State Park via State Road 313, and Long Canyon Road. The reservoir would impair the natural, primitive landscape currently enjoyed by our state park visitors.
- b) Electrical transmission lines required for the project would impact the viewshed and should be buried. The Notice of Preliminary Permit Application indicates that the project would necessitate construction of two 250 kV transmission lines, each of which would extend in a southerly direction for approximately 40 miles. The proponent should clarify the precise location of the transmission lines, specifically referencing ownership of lands within the proposed transmission line corridor, relationship to BLM utility corridors, and land management prescriptions applicable to all lands within the proposed transmission line corridor. If the proposed transmission line would utilize state lands the proponent will need to obtain authorization to use such lands.



**GRAND COUNTY COUNCIL MEMBERS**  
**Gene Ciarus (Chair) • Joette Langianese (Vice Chair)**  
**Audrey Graham • Bob Greenberg • Pat Holyoak**  
**Jerry McNeely • Jim Lewis**

ORIGINAL

September 3, 2008

Ms. Kimberly D. Bose, Secretary  
 Federal Energy Regulatory Commission  
 888 First Street, NE  
 Washington, DC 20426

FILED  
 SECRETARY OF THE  
 COMMISSION  
 2008 SEP 10 P 4:03  
 FEDERAL ENERGY  
 REGULATORY COMMISSION

**Re: Project No. 13227-000 – Proposed Pumped Storage Facility in Bull Canyon**  
**Project No. 13146-000 – Proposed Pumped Storage Facility in Long Canyon**  
**Utah Independent Power, Sonoma, CA – Applicant**

Dear Ms. Bose:

We are writing to inform you of our statements of concern regarding the proposed pumped storage facility in Bull Canyon and Long Canyon in Grand County by applicant, Utah Independent Power:

- The County roadway in the canyons could be impacted depending upon the design (i.e., the Long Canyon Road may have to be covered and closed, a historic and popular road);
- The location of the ponds may distract from the beauty of the canyons;
- The applicant company, having been established for this one project, may mean that there are no assets or a larger company backing it up; if so and if the company goes under, where would this leave the project?
- The applicant company appears to have only two employees, that being the two principals; if the two principals become unavailable to the project for any reason, where would this leave the project?
- The plan is inconsistent with our current and proposed Resource Management Plan.
- How can we be sure that the project is bona fide?

Thank you for the opportunity to express our concerns. As the application moves forward, we would appreciate being listed as stakeholders and receiving all public updates, notices and hearing schedules.

Sincerely,

Gene L. Ciarus, Chair  
 Grand County Council



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
Denver Federal Center, Building 56, Room 1003  
Post Office Box 25007 (D-108)  
Denver, Colorado 80225-0007



September 4, 2008

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ER 08/681  
ER 08/682

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**COMMENTS ON NOTICES OF APPLICATION FOR PRELIMINARY PERMITS IN  
GRAND COUNT, UTAH: LONG CANYON PUMPED STORAGE PROJECT, FERC  
NO. 13146-000; and BULL CANYON PUMPED STORAGE PROJECT, FERC  
NO. 13227-000**

Dear Ms. Bose:

The Department of the Interior (Department) has reviewed two subject notices pertaining to Bull Canyon Pumped Storage Project and to Long Canyon Pumped Storage Project, both located in Grand County, Utah, and provides the following comments and recommendations.

**COMMENTS**

The U.S. Bureau of Land Management (BLM) has concluded that two pumped storage projects proposed for Long Canyon and Bull (Day) Canyon would not be in conformance with either the BLM's current Grand Resource Area Resource Management Plan (RMP) of 1985, or with the Proposed RMP for the Moab Field Office, soon to be completed. The BLM would not allow rights-of-way within the canyon areas for either pump storage project under either of these RMPs.

The proposed projects are located upstream from the U.S. Bureau of Reclamation's Glen Canyon Dam and Lake Powell, and would divert water from the Colorado River. The applicant would need to consider potential environmental impacts at Glen Canyon/Lake Powell associated with water diversions from the Colorado River to the proposed Project. In addition, please note that



*Exhibit 3* in the “Application for Preliminary Permit” for each proposed project incorrectly identifies the U.S. Bureau of Reclamation as a utility.

### **Description of the Project Area**

The proposed Long Canyon and Bull Canyon projects would be located in a highly scenic area southwest of Moab, Utah. The project areas for both proposals extend from the banks of the Colorado River to the top of the mesa, and occupy narrow canyons composed largely of sandstone slickrock. Dead Horse Point State Park and Canyonlands National Park are located nearby. The area receives high tourism use due to outstanding scenery and many opportunities for outdoor recreation.

Water pipelines for the two projects are approximately 1.5 miles apart near the Colorado River, and converge at the 300-acre reservoir to be constructed on the mesa (figure 1). Each project would pump water from the Colorado River, across a Union Pacific railroad track and railroad right-of-way, to a lower reservoir (103 acres and 70 acres in size, respectively). Water would be pumped during low-electricity demand hours through a 17-foot pipeline a distance of 3.5 and 4.2 miles, respectively, from the lower reservoirs to the mesa reservoir.

Water released from the mesa reservoir through 17-foot diameter penstocks and three 267 MW Francis pump turbines and motor generators would yield a maximum capacity of 800 MW for each project. Each project would require construction of an underground powerhouse (750 feet long, 175 feet high, and 70 feet wide.). Twin circuit 250 kV transmission lines would be constructed in a southerly direction from the hydropower project site, for a distance of about 40 miles to tie into existing transmission lines. Water released for hydroelectric power generation would be recaptured in the lower reservoirs.

The Long Canyon project area is located entirely on public lands managed by the BLM. The lands identified for an access tunnel from the Colorado River to the lower reservoir are the only portion of the project lands that are within Public Water Reserve 34. Grand County Road #135, an improved and regularly maintained “B” road, provides access from the Colorado River through Long Canyon to the mesa.

The Bull Canyon project is located in a fork of Day Canyon. The Bull Canyon project area would cross less than one-fourth mile of lands within Public Water Reserve 34. The project area includes State school trust lands, Section 2, in Day Canyon, where the lower reservoir site, underground powerhouse and 0.85 mile of two buried 17-foot diameter penstocks would be located. The remainder of the project area would occupy public lands managed by the BLM.

### **BLM Resource Management Plans**

For all proposed activities or land uses, BLM must screen the project and determine whether it is in conformance with the RMP. If it is not in conformance, the BLM must determine if the RMP can be amended to accommodate the proposed use.

As discussed below, the BLM reviewed each proposed pumped storage project preliminary permit application with regard to whether, or not, it conforms to the present Grand Resource Area RMP (1985), and whether, or not, it conforms to the proposed RMP for the BLM's Moab Field Office. The Record of Decision for the latter Plan, expected to be signed in October 2008, would authorize it as the operational plan for approximately the next 20 years.

### **Evaluation of Conformance with Grand Resource Area RMP**

#### **1. Bighorn Sheep Crucial Habitat**

Both proposed projects would occupy areas that are designated as "avoidance areas" in the Grand Resource Area RMP. The RMP specifies that situating major rights-of-way in these areas should be avoided in order to protect bighorn sheep habitat. All facilities of the proposed projects on BLM lands would require a rights-of-way authorization; however, such an authorization would not be in conformance with the RMP.

#### **2. Powerline Construction**

Each project would require construction of 250 kV powerlines. The proposed route would need to be evaluated through a site-specific NEPA document. Based on the analysis, a decision would be made on whether or not the requested right-of-way would be issued outside the designated powerline corridors.

A management action in the RMP designates "approximately 140 miles (16,000 acres) of de facto corridors as official utility corridors. Such designation will minimize both the adverse environmental impacts and the proliferation of separate rights-of-way." To be in conformance with the RMP, powerlines of the two projects would need to be located within the designated right-of-way corridors.

#### **3. Administration of Gas and Oil Leases**

An objective of the Grand Resource Area RMP is "to keep public lands open for exploration and development of mineral resources while protecting areas with sensitive resource values." The public lands in the upper part of both project areas are open to oil and gas leasing and, within the canyons, the lands are open to oil and gas leasing with special stipulations to protect critical wildlife habitat, watersheds, and recreational use. Where leases have been issued, it is not in conformance with the Plan to transfer jurisdiction of these lands to another agency or authorize uses through right-of-way grants that would be contrary to the rights granted by the oil and gas leases.

### **Conclusion**

The proposed project is not in conformance with the 1985 Grand Resource Area RMP. This RMP will soon be replaced by the Moab Field Office RMP and therefore would not be amended for the proposed projects.

## **Evaluation of Conformance with Moab Field Office proposed RMP**

### **1. No Surface Occupancy**

The Long Canyon project area, except for the upper reservoir site, would be located within an area open to oil and gas leasing with no surface occupancy (NSO). Areas identified as NSO are open to oil and gas leasing but surface disturbing activities cannot be conducted on the surface of the land. NSO areas are avoidance areas for rights-of-way; no rights-of-ways would be granted in NSO areas unless there are no feasible alternatives. NSO in this area applies to all proposed surface-disturbing activities, and is designated for protection of desert bighorn sheep, riparian values, and scenic resources.

As proposed, the Long Canyon project involves the construction of a lower dam and reservoir, and burial of a powerplant and two 17-foot diameter penstocks in an area where surface disturbance would not be allowed. Except for the upper reservoir, the proposed project in Long Canyon would not be in conformance with the NSO oil and gas leasing designation.

The proposed upper reservoir would be located in an area that is open to oil and gas leasing, subject to special stipulations for wildlife protection during critical time periods (i.e., Timing Limitations (TL), and protection of scenic values through Controlled Surface Use (CSU).) Areas identified as TL are open to oil and gas leasing but closed to surface disturbing activities during identified time frames. Areas identified as CSU are open to oil and gas leasing but would require proposals for surface disturbing activities to be authorized only according to the controls or constraints specified. The upper reservoir may be in conformance with the oil and gas leasing designation, subject to special stipulations.

The Bull Canyon project area, except for the same shared upper reservoir site described for Long Canyon, would be in an NSO area within one-half mile of the Colorado River and also in the area west of State Land, Section 2. The proposed project in Day Canyon would not be in conformance with the NSO oil and gas leasing designation.

### **2. Special Recreation Management Areas**

Both proposed project areas are located entirely within two Special Recreation Management Areas (SRMAs). The riverine portions of both canyons are in the Colorado Riverway SRMA, and the top portion of both project areas is in the Labyrinth Rims/Gemini Bridges SRMA. The proposed surface disturbance and change in character to the area that would result from this project would not be in conformance with the SRMA designation.

### **3. Recreation Focus Areas**

Both of the Long Canyon and Bull Canyon projects would be partially located within a Recreation Focus Area. The lower reservoir sites for each project would be within the Goldbar/Corona Arch Hiking Area, emphasizing non-mechanized recreation because of the outstanding hiking opportunities that are found in these canyon systems. Closure of access to the mouths of the canyons would not be in conformance with the Recreation Focus Area designation.

4. Areas of Critical Environmental Concern

The lower part of the Bull Canyon project area and all of the Long Canyon project area would be within the Highway 279/Shafter Basin/Long Canyon Potential Area of Critical Environmental Concern (ACEC) with management prescriptions (Visual Resource Management Class II (see description below) and No Surface Occupancy) to protect the scenic values of the area. Each of the project areas would likely not be in conformance with protection of scenic values through ACEC designation.

5. Bighorn Sheep Habitat

Both project areas are located within crucial Desert Bighorn Sheep habitat and migration corridor habitat. In addition, the lands in the Long Canyon project area have been classified as lambing and rutting habitat. For protection of crucial bighorn sheep habitat, the areas where the projects are proposed have been designated as NSO. The proposed projects would conflict with the NSO designation.

6. Visual Resource Management

As proposed, both project areas would be located within Visual Resource Management (VRM) Class II, having both outstanding scenic quality and high visual sensitivity.

The management objective of Class II is to retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape. Under the Proposed RMP, BLM would manage the public lands in the project area to meet this objective. The proposed restrictive visual management for this area is designed to support the goal of managing the area for its outstanding scenery.

The visual inventory class was determined by evaluating 3 factors: scenic quality, visual sensitivity and visual distance zones. The combination of A quality scenery, high visual sensitivity, in the fore-ground-middle ground have given this area the highest visual inventory rating (class II) that an area with man-made improvements can receive. The proposed projects would not be in conformance with BLM's visual management goals for the proposed project areas.

7. Wild and Scenic River Status

The Colorado River segment that would be affected by the two proposed projects has been determined to be eligible for consideration as part of the Wild and Scenic Rivers System with a "Recreational" tentative classification. Under the proposed RMP, the affected river segment would be recommended as suitable for Wild and Scenic designation. BLM would be obligated to manage the area to maintain its outstandingly remarkable features of scenery, recreation, wildlife habitat, four endangered fish species habitat, cultural, geology, and ecological values until Congress acts on BLM's recommendation.

Whether the proposed pump storage projects would be consistent with this proposed classification would depend on the visibility and intrusive nature of the structures required to

remove and transport water from the Colorado River to the lower reservoirs, and the visual impacts from facilities that would be constructed within one-fourth mile of the river. If these structures would be visibly intrusive, the proposed projects would not be in conformance with the management objectives of river corridors eligible for the Wild and Scenic River status.

8. Utility Corridors

The Proposed RMP are not proposed utility corridors where the two proposed 250 kV powerlines would originate, but rather they would be constructed in an area designated as No Surface Occupancy. Issuance of rights-of-way for the project powerlines, starting in the project areas, would not be in conformance with the proposed RMP.

9. Travel Plan

The proposed RMP includes a travel plan in which the Long Canyon Road is recognized as a viable travel route operated and maintained by Grand County. Road #135 is a major travel route for oil and gas companies with producing wells on the mesa, for BLM access to bighorn sheep water catchments, and for recreational tours and events.

It appears that the proposed dam and reservoir in Long Canyon would block the County Road 135 and prevent future use. Due to physical terrain constraints, there are no other reasonable options for relocating this road. Closure of this road would not be in conformance with the proposed Plan.

10. Lands Identified for Disposal

The project areas are not identified for disposal in the proposed RMP. Transfer of jurisdiction of the lands to the Federal Energy Regulatory Commission would not be in conformance with the plan.

## **Conclusion**

The proposed Long Canyon and Bull Canyon Pumped Storage Water Power Projects would not be in conformance with the 2008 proposed Moab Field Office RMP for multiple sections of the RMP across a wide variety of resource decisions. Based on analysis of proposed designations and decisions, a plan amendment to accommodate the proposed pumped storage projects would not be a viable option under the proposed RMP, therefore rights-of-way on BLM lands for the proposed projects would likely not be granted.

## **Resource Values Potentially Affected by the Proposed Projects**

In addition to non-conformance with the land use plans, the Department identified the following resource values that would be potentially impacted by the pumped storage proposals. These resource values are the basis for most of the BLM's RMP management decisions presented in the previous section.

1. Wildlife Resources and Federally Threatened or Endangered Species:

***Mexican Spotted Owl***

The Mexican spotted owl (*Strix occidentalis lucida*) (MSO) is federally listed as threatened with critical habitat designated. The proposed project area offers habitat that is depicted as prime breeding habitat according to MSO habitat models. All of the area identified for the two proposed projects has been evaluated and is considered suitable and excellent breeding/nesting MSO habitat. All areas will continue to be surveyed due to the breeding/nesting suitability, and the proximity to the only known active nesting sites in Resource Area. Any surface disturbing activities in this area would likely cause adverse impacts to MSO habitat.

***Colorado River Basin Endangered Fish***

The proposed project should be evaluated for adverse effects it may have to four Colorado River fishes that are federally listed as threatened or endangered, and to river habitat designated by the Department of the Interior as critical habitat for the fish.

***Raptors***

The cliff faces and the close proximity to the river make this area prime habitat for nesting golden eagle, peregrine falcon, red-tailed hawks and other raptors. Both Long and Day Canyons have peregrine nesting territories. All raptors are protected by the Migratory Bird Treaty Act (16 U.S.C. §703 et seq.), and golden eagles also are protected by the Bald and Golden Eagle Protection Act (16 U.S.C. §668 et seq.). The proposed project could adversely impact existing nesting territories and habitat.

***Bighorn Sheep***

The Potash bighorn sheep populations (*Ovis canadensis*) of Long and Day Canyons are part of the Canyonlands National Park (Island in the Sky) herd; one of the only remaining native desert bighorn herds in Utah that supports a viable population. Because the Potash bighorn herd has remained healthy, disease-free and is expanding both its range and its population size, it is used as a source for re-establishing bighorn populations to other historically occupied ranges of the west. Most of the proposed hydropower projects area has been identified as crucial lambing grounds, and the proposed RMP designates these habitat areas as NSO due to the importance to the survival of the Potash bighorn herd.

In 2002-2003 and again in 2006-2007 extensive surveys were conducted within the Potash Herd utilizing GPS collars to define important lambing habitats. A third survey has been funded and is targeted to begin in January of 2009. Several agencies, including the Bureau of Land Management, National Park Service, and the Utah Division of Wildlife Resources, and groups, including the Foundation for North American Wild Sheep, Brigham Young University, and the Fish and Wildlife Foundation, have invested well over \$100,000 in these 2 surveys and are prepared to invest another \$100,000 for the study planned for 2009-2011. Many of the targeted animals have utilized the proposed project area. The first two surveys identified most of the proposed project areas as crucial lambing grounds and the draft RMP has designated these areas as NSO due to the importance of this habitat to the survival of the

Potash bighorn herd. Two of the 10 bighorn water developments constructed in the past 10 years are located within Long Canyon.

2. Cultural Resources:

Neither canyon system has been intensively surveyed for cultural resources. However, based on known density of sites in the surrounding area (approximately 20 sites per square mile), the proposed project areas have good potential for significant cultural sites. Known cultural sites have been documented in the Jug Handle Arch area of Long Canyon where the Long Canyon dam is proposed.

3. Mineral Resources:

The public lands on the mesa where the upper reservoir site has been proposed, are within the Cane Creek Unit, a complex of producing oil and gas fields. Oil and gas leases, which cover much of the western portion of the proposed pumped storage project areas, are valid existing rights. Any future project would be subservient to these granted rights. Leases in the Cane Creek Unit will not expire as long as there is at least one well with paying production.

An ongoing exploratory drilling program is underway in the immediate project area. Within a 2-mile radius of the upper reservoir there are three producing oil wells, one drilling well and seven proposed wells (Applications for Permit to Drill), one of which is within the high-water line of the proposed reservoir.

4. Recreation:

***Long Canyon***

Long Canyon receives a very high level of recreation use, including both commercial and private use. Recreation activities occurring in Long Canyon include jeeping/scenic driving, mountain bicycling, ATV and dirt biking, rock climbing, hiking and running, photography, and horseback riding.

Long Canyon's popularity is due in part to its accessibility from State Route 279, a paved Utah State Scenic Byway, and its scenic resources. Long Canyon Road is also the shortest route between Moab and Dead Horse Point State Park. Emergency Medical Services and Grand County Search and Rescue use this route regularly.

Commercial Recreation Permit Holders: Numerous commercial tourism and recreation guides use Long Canyon. In addition, the Long Canyon route is very popular for four-wheel drive (4WD) vehicles, and as a Jeep Safari Trail.

Long Canyon is a unique resource in the Moab area since it is one of the only areas in which a County road provides access through the length of a canyon. The proposed pump storage project in Long Canyon would result in a loss of hiking opportunities in the proposed hiking focus area in the Moab Field Office RMP, loss of 4WD opportunities for both private and

commercial parties, and loss of mountain biking recreation opportunities for private, commercial and competitive events.

### ***Day Canyon***

There is moderate recreation use in Day Canyon, due its accessibility from a Utah State Highway. The bottom portion of the canyon is 2 miles from BLM's Goldbar Recreation Area. Day Canyon is often a hiking destination for people and groups using this recreation site. Recreation activities occurring in the bottom portion of the canyon include hiking and climbing. In the upper portion of the project area, recreation activities include jeeping and mountain biking.

#### **5. Scenic Resources:**

Close, natural views of unique rock formations and distant views of the mountains, canyons, mesa tops and striking geologic formations are part of the unique experience offered to visitors that seek out Canyonlands National Park. These important viewsheds could be degraded by infrastructure associated with the pumped storage project(s): especially the 40 miles of high voltage powerlines and two-track maintenance roads that may accompany powerlines. Similarly, any infrastructure that was not placed underground, due, for example to poor geology, could impact the viewshed of Canyonlands National Park.

In addition, Long Canyon is a destination area for commercial filming projects due to its outstanding scenery. Many commercials, still advertisements, and some movies have used Long Canyon as a filming location.

#### **6. Other Resources:**

Day Canyon has a very large deposit of petrified wood about half-way up the canyon which could be damaged by the proposed action. Several springs feed into Day Canyon providing year-round intermittent water and a resulting riparian habitat throughout much of the canyon. The water source is important to bighorn sheep and to birds. There is a historic stock trail into Day Canyon from the plateau above. This trail, which goes from the river to the plateau, was constructed by Abe Day in the 1930s, as part of a government-sponsored drought relief project.

#### **7. Socio-economic Impacts:**

Impacts to socioeconomics include effects from the above lost recreation opportunities and their potential impacts on local businesses and events sponsors. There also could be an impact to State and local governments from loss of sales and restaurant taxes, should visitation decline due to loss of recreation opportunities. Many if not all of the jeep rental companies send their clients to Long Canyon, which provides a good beginner 4WD experience. Loss of business to these firms would also affect the car rental tax which accrues to Grand County.




## CONCLUSIONS

BLM's review of Utah Independent Power's proposals for FERC Project No. 13227-000 and 13146-000 indicates that the projects would not be in conformance with either the current Grand Resource Area RMP or the Proposed Moab Field Office RMP. Issuance of rights-of-way within the canyon areas would not be allowed under either BLM Plan.

The application materials for the permit suggest that valuable resources of local, regional, and even international significance existing in the project area could be impacted. Therefore, the Department recommends that FERC not approve the applications for preliminary permit for a major new hydroelectric power plant in either the Long Canyon or the Bull (Day) Canyon locations.

We appreciate the opportunity to provide this input at this early stage of project review. If you have questions regarding the BLM issues, please contact Greg Thayn at 801-539-4071. If you have questions regarding our comments concerning Canyonlands National Park, please contact Jeff Troutman at (435) 719-2130. For questions regarding our comments on Colorado River water use and Lake Powell impacts, please contact Jane Blair of the U.S. Bureau of Reclamation at 801-524-3628.

Sincerely,

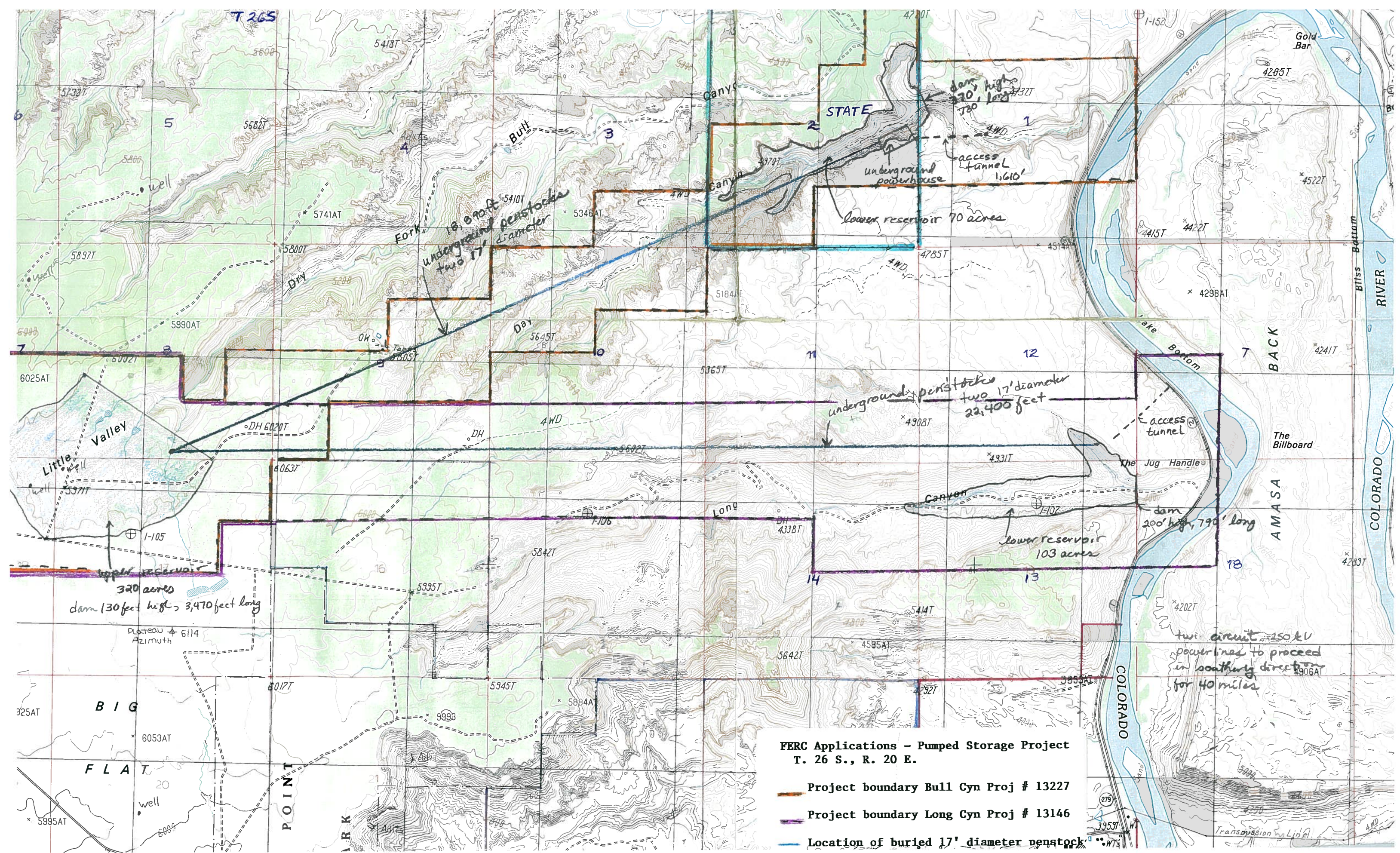
A handwritten signature in black ink, appearing to read "Robert F. Stewart", with a stylized flourish extending from the end.

Robert F. Stewart  
Regional Environmental Officer

Enclosure – Figure 1

cc: Director, Division of Project Review  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426





**FERC Applications - Pumped Storage Project  
T. 26 S., R. 20 E.**

- Project boundary Bull Cyn Proj # 13227**
- Project boundary Long Cyn Proj # 13146**
- Location of buried 17' diameter penstock**



Comment of Carolyn Wright in Docket(s)/Project(s) P-13146-000  
Submission Date: 9/4/2008

August 26, 2008

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

SUBJECT: Long Canyon and the Little Valley in Grand County Project No. 13146-000  
RDCC Project No. 08-9589

Dear Ms. Bose:

The State of Utah appreciates the opportunity to comment on this Preliminary Permit Application for the Long Canyon Pumped Storage Project, to be located in the Long Canyon and the Little Valley in Grand County, Utah, near the Colorado River.

The proposed project would consist of: (1) proposed earth and rock-filled dams, 130-foot-high and 3,470-foot-long and 200-foot-high and 790-foot-long, respectively, for the upper and lower reservoirs which would have water surface elevations of 6,010 and 2,400 feet, respectively, (2) a proposed powerhouse containing three generating units having a total installed capacity of 800 megawatts, (3) a proposed 22,400-foot-long concrete/steel penstock, a (4) a proposed 40-mile-long, 250-kV transmission line, and (5) appurtenant facilities. The project would have an annual generation of 1,077 gigawatt-hours that would be sold to a local utility.

The comments and concerns raised below are raised through analysis of and adherence to the provisions of law, regulation, good governance, and common sense. The state recognizes impact analyses as a dynamic process that will continue into the future, and reserves the right to supplement these comments as necessary. The state looks forward to consideration and resolution of these issues as the Federal Energy Regulatory Commission (FERC) considers the proposal.

Property Rights/School Trust Lands:

FERC's Standard Article 5 requires the proponent to acquire and retain title in fee to, or the right to use in perpetuity, project properties sufficient to accomplish all project purposes. The lands proposed for the Long Canyon Pump Storage Projects are a mix of federal and state land. The applicant has made no effort to obtain permission to utilize School Trust Lands, not only for the project itself, but for any preliminary studies or investigations.

As stated in Exhibit 1 of UIP<sup>TM</sup>s Application for Preliminary Permit, the project boundaries include real property located in Grand County, Utah, including Section 16 of Township 26 South, Range 20 East, SLB&M (âœSection 16âœ). Section 16 is a parcel of state school trust lands granted to the State

of Utah by Congress for the support of public education pursuant to the Utah Enabling Act, ch. 138, 28 Stat. 107. SITLA manages the parcel on behalf of the State of Utah subject to mandates imposed by the Utah Enabling Act, the Utah Constitution, and state law. See Title 53C of the Utah Code Annotated (1994) and UT Const. art. XX. Any disposition of school trust lands must conform with all constitutional and statutory requirements.

SITLA has not authorized any use of Section 16 by UIP. UIP has not submitted an application to lease or purchase the parcel in accordance with the statutory and regulatory framework governing school trust lands. UIP has not contacted SITLA with a request to lease Section 16 for any purpose. UIP has no legal right to use school trust lands without SITLA's consent, not only for the project itself but also for any preliminary studies or investigations.

UIP has no authority to condemn state lands for its private purpose under the Federal Power Act, 16 U.S.C. 814, in derogation of the purposes of the land grants made by Congress to the State of Utah through the Utah Enabling Act. Even if 16 U.S.C. 814 is applicable, that statute requires UIP to make a bona fide offer to acquire Section 16 from SITLA. *Marseilles Hydro Power, LLC v. Marseilles Land & Water Company*, 518 F.3d 459 (7th Cir. 2008). No offer, or indeed any contact at all, has been made by UIP. UIP has no legal authority to utilize Section 16 in any way.

All other issues relating to the project are of little consequence and all absent the right to access and use lands within the project area. The state encourages FERC to withhold further action on the Long Canyon Pump Storage projects unless and until the applicant demonstrates a legally valid and perpetual right to use all necessary lands.

#### Water Quality, Rights and Resources:

According to Form L-1, Federal Power Commission Terms and Conditions of License for Constructed Major Project Affecting Lands of the United States: "Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters. 54 FPC 1799 at 1803, (Oct. 1975) (hereinafter "Terms and Conditions of License").

The "Initial Statement" in support of the Long Canyon/Little Valley proposal identifies holders of "water allocations set forth by Congress and the Colorado Compact," indicating that these holders "have contractual agreements, or have issued legal water use permits, or some form of legal commitments to supply water from their respective allocations." The proponent must clearly identify the water rights they rely upon for their proposal as well as any contractual agreement to utilize such waters.

The proponent must carefully analyze water quality related impacts in sufficient detail to support the state's certification of compliance with state water quality standards required by section 401 of the Clean Water Act. The state engineer regulates dams to protect public safety. The applicant will need to submit dam plans and a stream alteration permit will likely be required for the intake structure.

It is also unclear from the applicati

Document Content(s)

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September 8, 2008

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**E-File**

**Concerning Comments:** NOTICES OF APPLICATION FOR PRELIMINARY PERMITS IN GRAND COUNTY, UTAH: LONG CANYON PUMPED STORAGE PROJECT, FERC NO. P-13146-000; and BULL CANYON PUMPED STORAGE PROJECT, FERC NO. P-13227-000

Dear Ms. Bose:

I have reviewed two notices pertaining to Bull Canyon Pumped Storage Water Power Project and to Long Canyon Pumped Storage Water Power Project, both located in Grand County, Utah and have attended a public information presentation given to the Grand County Council on August 19, 2008 by Mr. Frank Mazzone, President of Utah Independent Power and a colleague.

**Overview**

From the outset the presentation to the Grand County Council was fraught with inconsistencies, lack of information, and a curiously unskillful presentation that caused the proposal to seem little more than a fishing expedition.

Of major concern is that the applicant only spoke of the Bull [Day] Canyon project. I heard no mention of the Long Canyon project. It is not clear whether the applicant is seeking to build the projects independently, concurrently, or in succession. It is not stated that the two projects use the same Little Valley upper reservoir.

Further the applicant seemed to have had no contact with any government or non-governmental agencies that may have a role in permitting or reviewing these projects. Mr. Mazzone noted the exception, when pressed by a member of the Council, that the State Engineer had given assurance that "the water will be available". With little more than using land ownership maps; BLM, County, and other agency plans and documents; published books and guides; and promotional materials for the area -- the applicant could readily see that the siting of these proposed projects conflicts with numerous established activities, uses, and unique resources and values critically important to the Moab area and southeast Utah. The sort of established uses in this area cannot be mitigated by best available technology. These proposed pumped storage projects are just not compatible with the area nor the goals of the populace.

I realize that FERC may not be able to utilize some of this information specifically, but it illustrates why I am very skeptical that these project proposals are serious engineered energy development projects. Under the FERC Preliminary Permit Application, the information requirements are minimal, assuming that the project will be 'fleshed out' as FERC and other agencies begin review. However, it is not useful to engage agency and public time on a project(s) that provide sketchy information that is just over-layed on a two-dimensional map and is apparently speculative.

I urge FERC to dismiss these project applications for lack of substantive basis on siting criteria as well as the lack of established purpose and need to supply clean, renewable, supplemental energy to the region.

### **Specific Comments**

I have the following specific comments and concerns related to both proposed projects that further support seriously questioning the feasibility and appropriateness of these proposed projects.

- 1) I concur with the comments, submitted by the U.S. Bureau of Land Management (BLM) which concluded that two pumped storage projects proposed for Long Canyon and Bull (Day) Canyon would not be in conformance with either the BLM's current Grand Resource Area Resource Management Plan (RMP) of 1985, or with the Proposed RMP for the Moab Field Office, soon to be completed. The BLM would not allow rights-of-way within the canyon areas for either pump storage project under either of these RMPs.

In addition to non-conformance with the BLM land use plans, BLM identified numerous resource values that would be potentially impacted by the pumped storage proposals, including Mexican spotted owl, Colorado River Basin Endangered Fish, raptors, bighorn sheep, scenic and recreational resources in Day and Long canyons, Canyonlands National Park, Dead Horse Point State park, riparian resources, cultural resources, mineral resources, etc.

I respectfully incorporate BLM's full comments by reference, in the letter dated September 4, 2008 from Robert F. Stewart, Regional Environmental, BLM to Kimberly Bose, Secretary Federal Energy Regulatory Commission.

- 2) The applicant has not adequately disclosed the source of water rights for either project in the submitted applications to your office nor to the satisfaction of me or those present at Grand County Council in the meeting noted above.
- 3) The applicant has not addressed the potential impacts of wet water withdrawals for either project on water quality and quantity of the Colorado River.
- 4) The applicant has not addressed the potential impacts of wet water withdrawals for either project on ground water quality in the surrounding region.
- 5) The applicant has not addressed the potential impacts of paper water withdrawals on basin users and the Colorado River compact; FERC should be aware that portions of the upper Colorado Basin are still in adjudication.
- 6) Neither application addresses how the underground pump facilities (750 long by 175 feet deep, 70 ft wide) nor the penstocks (Bull Canyon 18,890 feet long; Long Canyon over 22,400 ft long) will be constructed. If these facilities are to be underground, the feasibility would be enormously expensive and disruptive of terrain and other resources; it is highly questionable that it is feasible at all to place the penstocks underground.
- 7) The applicant claims under 9c) Exhibit 2 – Studies item 2, Subsurface investigations, that “no wetlands will be disturbed”. This is not possible to claim since the applicant says that studies will be needed for many resources including wetlands surveys. Further there is no

way to know the potential impact of construction and operation of any of the facilities, including placement of the penstocks, on groundwater that supplies springs, seeps and perennial reaches in the area before studies are conducted.

The same section states that “Topographic maps using aerial photography would be used” (sic). Does this refer to identifying wetlands and Waters of the US or to ‘surveys for boring locations’. Ground surveys are essential for wetlands identification and assessment of potential impacts.

- 8) I am concerned that the applicant has not successfully shown that either project would actually be 75% efficient – at best. Regardless, it is time for national energy policy to shift from less efficient modes of energy production and supply. The operation of the facilities would likely be supplied by coal fired plants that are already causing pollution in the region and do not support the philosophy stated of ‘clean’ energy.
- 9) The need to construct additional 40 miles of twin 250 KW powerlines is a major action that will have serious impact on additional resources beyond the project(s) itself.
- 10) The applicant does not address the effects of evaporation from the reservoirs on water needs and other factors.
- 11) The applicant does not address local conditions that will prove challenging for siting and operation of these projects such as torrential rains that have formed the diverse and rugged and ever-changing landscape in the area.
- 12) Grand County Council members raised several questions that were not answered adequately such as: The county did not identify nor support a backcountry alternative energy corridor as part of the 2005 Federal Energy Act. What site characteristics and criteria were used to select Long and Day canyons for these projects? The impact of the estimated 2200 new workers in the area for 5 years on the County would be significant – How would the applicant address this?

## Conclusion

The applications to permit pumped storage water power projects in either the Long Canyon or the Bull (Day) Canyon locations indicate that valuable resources of local, regional, and international significance existing in the project areas would be impacted. The application demonstrates that the applicant is not fully knowledgeable about the challenges and constraints, both physically and administratively facing these projects. The applicant does not justify the need for the project. I respectfully request that FERC not approve these applications for preliminary permit for major new hydroelectric power plants.

Thank you for the opportunity to comment.

Sincerely,

Pamala R. Hackley

Professional Soil Scientist, Retired  
 Certified Professional Wetlands Scientist, Retired  
 HC 64 Box 3208  
 Castle Valley, Utah 84532  
[phackley@frontiernet.net](mailto:phackley@frontiernet.net)  
 FERC User ID #F178582





Document Content(s)

FERC comments.DOC.....1-4

September 24, 2008

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

COMMENTS: P-13146. Application by for Preliminary Permit, Long Canyon Pumped Storage Water Power Project, March 14, 2008. Notice published in the Moab Times-Independent August 7, 2008.

Dear Ms. Bose:

I appreciate the opportunity to comment on the application for a Preliminary Permit, Long Canyon Pumped Storage Water Power Project, March 14, 2008, Project No. 13146-000.

**Water Rights:**

Applications to the Federal Energy Regulatory Commission (FERC) are required to include information regarding the applicant's possession of the necessary water rights for the proposed project.

The application submitted by Utah Independent Power (UIP), Sonoma, California, for the proposed project in Long Canyon and Long Valley, Grand County, Utah, does not contain any information regarding Utah Independent Power's access to the water necessary for the proposed project.

The UIP application, at 2, contains a list of principal federal, state, and local holders of water rights on the Colorado River and mentions various kinds of users of those water rights. But, UIP does not discuss the water rights UIP holds or intends to apply for, lease, or purchase. The application does not include any information regarding the total amount of water (acre-feet per year) that would be required for the project.

UIP would have to obtain water from an existing holder of water rights from the Colorado River or apply for a new allocation of Colorado River water. A new application to appropriate water or application to change the use or point of diversion of an existing water right would have to be approved by the State Engineer, Utah Division of Water Rights (DWR). The requirements for approval or rejection of water rights applications are found at Utah Code 73-3-8. The State Engineer would need to evaluate whether the proposed plan would impair existing rights or interfere with more beneficial use of the water, whether the plan is physically and economically feasible, and whether the applicant has the financial ability to complete the proposed project. If the State

Federal Energy Regulatory Commission  
September 24, 2008

2

Engineer has reason to believe that the proposed use would interfere with more beneficial use of the water, would unreasonably affect public recreation or natural environment, or would prove detrimental to the public welfare, the appropriation or change would not be approved.

In response to any application for appropriation or change, the DWR would notice an opportunity for the public to comment on or protest the application. Based on the comments on the UIP application submitted to the FERC, it is doubtful that the State Engineer could approve any use of Colorado River water for the proposed project. There is no doubt that there would be protests of any UIP water rights application for the proposed project.

Further, the UIP application does not explain how UIP would obtain water rights from an entity outside of Utah and transfer those water rights to Utah. There is no discussion of the legal complexities of such a prospect.

**Conclusion:**

The UIP application did not meet the requirements for an assessment of its access to water for the proposed project.

The comments on the proposed project by state and federal entities and local individuals, organizations, and entities demonstrate that the proposed project would not be feasible and should not be pursued further.

The comments on the proposed project demonstrate that use of Utah water from the Colorado River for the proposed project would not be acceptable to the DWR and the affected community.

Any on-site investigations that would in any manner alter or disturb the lands or waters in the vicinity of the proposed site, such as core borings, are not warranted and should not be approved.

Sincerely,

Sarah M. Fields  
P.O. Box 143  
Moab, Utah 84532

Document Content(s)

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## Center for Water Advocacy

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90 West Center Street • Moab, UT 84532 • 541-377-0960  
www.wateradvocacy.org / waterlaw@uci.net

October 3, 2008

Honorable Kimberly D. Bose, Secretary  
Nathaniel J. Davis, Sr., Deputy Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

**RE:** FERC Project Nos. 13227 and 13146. Application for a preliminary permit known as Bull Canyon Pumped Storage Water Power Project and Long Canyon Pumped Storage Water Power Project by Utah Independent Power, the applicants. **MOTION TO INTERVENE AND PROTEST of Red Rock Forests and the Moab Local Green Party**

Dear Secretary Bose:

On behalf of Red Rock Forest's and the Moab Local Green Party (Proposed Intervenors) enclosed for electronic filing is the Motion to Intervene in the above referenced matter.

Please contact me if there are any problems with the transmission of this filing.

Sincerely,

/s/ Joel Ban, Attorney at Law USB#10114  
on behalf of Center for Water Advocacy

Cc: Parties on Official Service List

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Bull/Long Canyon Pumped Storage	)	Project Nos. 13227 and 13146
Water Projects	)	
	)	
Application for License	)	Utah Independent Power
	)	

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MOTION TO INTERVENE OF RED ROCK  
FORESTS AND MOAB LOCAL GREEN PARTY

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Pursuant to Rule 214 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.214, the Red Rock Forests and Moab Local Green Party (Intervenors) hereby move to intervene in the above-captioned docket.

1. Copies of all notices, correspondence, and pleadings related to this docket should be directed to:

Joel Ban  
c/o Harold Shepherd  
The Center for Water Advocacy  
P.O.B. 331  
Moab, UT 84532

With copies to:

Terry Shepherd  
Executive Director  
Red Rock Forests  
90 West Center St.  
Moab, UT 84532

Robert Lippman

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE

Moab Local Green Party  
P.O. Box 331  
Moab, UT 84532

2. This Motion is in relation to the proposed Bull Canyon & Long Canyon Pumped Storage Water Power Projects (Projects) by Utah Independent Power (UIP), which would provide peaking power by using pumped Colorado River water stored in perched, off-river reservoirs in Grand County, Utah, near Canyonlands National Park and Dead Horse Point State Park.

3. We understand the power to pump the water from the river to the two reservoirs will be provided by steam generating plants that heat water using fossil fuels.

The grounds in support of this motion are:

**I. Interests of the Petitioner**

4. The Moab Local Green Party facilitates the planning and achievement of eco-justice action, ecological wisdom and environmental justice proposals adopted by the Green Party, supports and promotes the Green Party's candidates and eco-justice platform and agenda, and promotes and advocates for responsible government stewardship of the Earth and it's inhabitants. Red Rock Forests located in Moab, Utah focuses on the health of the La Sal Mountains, Abajo Mountains and Elk Ridge of the Canyonlands Basin of southeast Utah. Red Rock Forests mission is to protect the long-term health and viability of these high elevation forests. They provide critical summer forage for fish and wildlife and support a rich diversity of plant life.

5. Proposed Intervenors and their members use and enjoy the waters, public lands, and natural resources throughout the areas covered by the EA and ROD for recreational, scientific, spiritual, educational, aesthetic, and other purposes. Proposed Intervenors' members enjoy

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE



traditional and cultural pursuits, fishing, hiking, camping, hunting, bird watching, study, contemplation, photography, and other activities in and around the waters and public lands throughout the project area. Proposed Intervenor and their members also participate in information gathering and dissemination, education and public outreach, commenting upon proposed agency actions, and other activities relating to the FERC's management and administration of water resources that affect these interests. Proposed Intervenor and their members use information obtained from the FERC to ensure that the agency is satisfying its duties under all applicable statutes, regulations, and management plans, allowing Proposed Intervenor and the general public to assess current and future FERC hydro-power permitting and planning actions that affect water resources in Utah.

6. Proposed Intervenor and their members also share information obtained from the FERC with their members, other organizations and other agencies, via organization newsletters, websites, email, and media contacts, furthering the public's understanding of the operations of FERC.

7. The Projects in this case are particularly harmful in that two reservoir storage and hydro-power facilities may be authorized despite a lack of critical baseline information and site-specific analysis of the effects of these actions. Proposed Intervenor and their members, therefore, may suffer on-going and irreparable harm and injury to their interests from the Projects.

### **Position of the Petitioners**

8. The permits under request, to determine the feasibility of this hydropower project, should be denied because the proposed power generating facilities are far removed from urban power markets and are not truly renewable nor energy efficient. These Projects will also stress ever-

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE

diminishing water supplies for people and critical habitat, and spoil superlative scenery critical to the areas' economy.

### **III. Background and Project Description**

9. The proposed Bull Canyon & Long Canyon Pumped Storage Water Power Project by (UIP), which would provide peaking power by using pumped Colorado River water stored in perched, off-river reservoirs in Grand County, Utah, near Canyonlands National Park and Dead Horse Point State Park.

### **IV. Impacts of the Proposed Project**

10. To be efficient as possible, new power plants should be adjacent to the markets they are intended for. New projects should be fully renewable and not dependent on fossil or nuclear fuels, nor damage sensitive lands near critical habitat and protected federal and state lands. Furthermore, it is not necessary for project investors to spend large amounts of money on a feasibility study that will needlessly damage the landscape, when free and credible hydrologic and geologic studies about the Colorado Plateau and Colorado River already exist. A simple document search will provide a significant amount of prior research that will show why this proposed project is not feasible, nor prudent.

### **Water Scarcity**

11. Both federal and university scientists have determined that the Colorado River no longer has surplus water, since the system is over-appropriated and increasing evaporation from atmospheric warming will keep this situation unchanged beyond the duration of a federal 50-year operating permit. This water scarcity problem for the Colorado River basin includes predictions

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE

that hydropower production at Glen Canyon and Hoover dams will cease in the near future. For example, last February the Scripps Institute produced a peer-reviewed paper that concluded Lakes Mead and Powell will empty despite the guidance of Shortage Criteria from the Bureau of Reclamation (2007 FEIS), and provided a timetable: 10% chance by 2013, 50% chance by 2021, and 100% by 2036. The report is based on an annual reduction of Colorado River flows at 10% for the present and 30% by 2060, which is displayed as a graphic below by using Index Sequential Modeling (ISM) according to the open source simulator CROSS found at [www.onthecolorado.org/Cross.cfm](http://www.onthecolorado.org/Cross.cfm) . It is not internally consistent to grant a federal license to a hydroelectric facility that needs Colorado River water to operate, when existing Colorado River hydropower facilities are currently stressed from low reservoir levels and predicted to fail entirely within the next 50 years.

### **Transmission Lines**

12. The Bureau of Reclamation conducted feasibility studies in the past for hydroelectric dams on the Colorado River in Grand County. One of the reasons why hydropower dams were not built in Grand County included the long distances for transmission lines to deliver that power to faraway urban markets, which remains true today. Power projects must be built closer to the markets they are intended to minimize losses through long transmission lines. Furthermore, the additional transmission lines for this project in the scenic Colorado Plateau will harm the fundamental reason why visitors from around the world visit our county to enjoy our unspoiled canyons and vistas.

### **Seepage and Evaporation**

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE

13. This proposal includes two new reservoirs that are surrounded by a geologic formation known as the Glen Canyon Group. These Jurassic sandstones are comprised of massive and homogenous formations that are highly porous and permeable. For example, the Glen Canyon Group surrounds Lake Powell downstream. The Bureau of Reclamation estimates that as much as 19 million acre-feet of Colorado River water have saturated these sandstones. The climate of the area is arid with excessive evaporation rates. The local annual evaporation rate exceeds the amount of annual rainfall on the magnitude of six. Consequently, thousands of acre-feet of water will unnecessarily be lost to support these two reservoirs and constitutes another inappropriate inefficiency for this project, especially when considering the impending scarcity of water for downstream consumers and the critical habitats of this region with endangered and threatened species.

### **Dam Safety**

14. The geology of the proposed dam site in Day Canyon has Triassic Chinle Shale. The Bureau of Reclamation has done feasibility studies about Chinle Shale with the conclusion that it is not an adequate bedrock material for dam construction. For example, of the many potential sites investigated for the building of Glen Canyon Dam in Arizona, the sites where Chinle Shale is exposed were rejected.

### **Day Canyon**

15. The pumping plant and lower reservoir for this proposal will be located at the mouth of Day Canyon, which is a popular hiking place for residents and tourists alike. The staff, volunteers and members of this NGO coalition letter hike Day Canyon frequently because it has

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE

springs, riparian vegetation, outstanding vistas, and native wildlife to observe, such as desert bighorn sheep and breeding birds. In the Resource Management Plan (RMP), currently under environmental review, the FERC (BLM) is proposing that grazing be excluded from Day Canyon for the reasons of springs and the riparian vegetation it supports in this refuge canyon. The impacts of a reservoir inundating Day Canyon are indeed more severe than those of grazing stock animals. It would be inconsistent for the FERC to consider exceptions for a reservoir that would destroy what the agency considers to be important wildlife habitat. Furthermore, the proposed BLM RMP has designated Day Canyon as part of the Goldbar/Corona Arch Hiking Focus Area. The purposes of this BLM designation would be compromised by this reservoir as well.

## **VI. Conclusion and Requested Action**

It is unfortunate that UIP is wasting the time, resources, and goodwill of federal and state agencies, and the citizens of Grand County, to process this ill-conceived plan to build an expensive and inefficient power plant with many inappropriate tradeoffs. We ask that you deny this permit so that the investment money can be used instead for power development that is truly innovative, efficient and renewable, and without causing any harm to natural resources that are already under stress or sensitive to development.

RESPECTFULLY SUBMITTED this 3rd day of October, 2008.

*/s/ Joel Ban*  
on behalf of The Center for Water Advocacy

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Bull/Long Canyon Pumped Storage	)	Project Nos. 13227 and
13146	)	
Water Project	)	
	)	
Application for License	)	Utah Independent Power
	)	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, by overnight or regular mail, postage prepaid, of Red Rock Forests and the Moab Local Green Party's Motion to Intervene dated October 3, 2008 upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the Rules of Practice and Procedure.

DATED this 3rd day of October, 2008.

s/ Harold Shepherd  
Harold Shepherd

The Center for Water Advocacy

MOTION TO INTERVENE AND PROTEST OF THE SNOWQUALMIE INDIAN TRIBE

Document Content(s)

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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Utah Independent Power

Project No. 13146-000

NOTICE DENYING LATE INTERVENTION

(October 9, 2008)

On July 9, 2008, the Commission issued public *Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comment, Motions to Intervene, and Competing Applications* on Utah Independent Power's application for a preliminary permit to study the feasibility of the Long Canyon Pumped Storage Project. The notice established September 8, 2008, as the deadline for comments, motions to intervene, and competing applications.

Red Rock Forest and Moab Local Green Party filed a late motion to intervene on October 3, 2008.

In determining whether to grant late interventions, the Commission may consider such factors as whether the movant had good cause for filing late, whether the movant's interests are adequately represented by other parties to the proceeding, and whether granting the intervention might result in disruption to the proceeding or prejudice to other parties.<sup>1</sup> Movants for late interventions must, among other things, demonstrate good cause why the time limitation should be waived.<sup>2</sup>

Movant fails to give any explanation as to why the time limitation should be waived. The Commission issued public notice of the preliminary permit on July 9, 2008, and published notice in the *Federal Register* on July 16, 2008.<sup>3</sup> Movant therefore had notice of Utah Independent Power's application, but failed to timely respond to it.

In any event, the issues raised by movants are premature in the preliminary permit proceeding. Movant's concerns lie with the actual project and not the permit, the

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<sup>1</sup> 18 C.F.R. § 385.214(d) (2008).

<sup>2</sup> 18 C.F.R. § 385.214(b)(3) (2008).

<sup>3</sup> 73 *Fed Reg.* 40,865 (2008).



issuance of which does not authorize the construction of the project.<sup>4</sup> The issuance of a preliminary permit only allows the permittee the right to preserve the priority of application for a license, while the permittee obtains data and performs feasibility studies.<sup>5</sup> If Utah Independent Power files a license application for the project, then movant's concerns can be addressed at that time.<sup>6</sup>

Movant has failed to demonstrate good cause for granting its late intervention. Therefore its motion for late intervention is denied.

This notice constitutes final agency action. Requests for rehearing by the Commission of this rejection must be filed within 30 days of the date of issuance of this notice, pursuant to 18 CFR 385.713 (2008).

Kimberly D. Bose,  
Secretary.

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<sup>4</sup> See *Sunset Falls, L.P.*, 60 FERC ¶ 61,301 at 62,079 (1992) (“a permit does not authorize construction”).

<sup>5</sup> See 16 U.S.C. § 798 (2006); 18 C.F.R. § 4.80 (2008).

<sup>6</sup> To receive all filings in this docket, movant is encouraged to use the Commission's e-Subscription service, which can be accessed at <http://www.ferc.gov/docs-filing/esubscription.asp>.

Document Content(s)

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125 FERC ¶ 61,257  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Utah Independent Power

Project Nos. 13146-001 and  
13227-001

NOTICE DISMISSING REQUEST FOR REHEARING

(November 26, 2008)

On July 9, 2008, Commission staff issued two notices (July 9 Notices) announcing Utah Independent Power's (Utah Power) applications for preliminary permits for the Long Canyon Pumped Storage Project No. 13146 and the Bull Canyon Pumped Storage Project No. 13227. The July 9 Notices set the deadline for motions to intervene in the preliminary permit proceedings as 60 days from the issuance date of the notice, or September 8, 2008. On October 3, 2008, Red Rock Forest and the Moab Local Green Party (collectively, Red Rock) filed a motion to intervene in both preliminary permit proceedings. On October 9, 2008, the Commission Secretary denied Red Rock's motion to intervene because Red Rock failed to file within the noticed deadline. Commission staff issued preliminary permits to Utah Power for Project No. 13146 on October 7, 2008, and for Project No. 13227 on October 10, 2008.<sup>1</sup> On November 6, 2008, Red Rock filed for rehearing of the Commission Secretary's denial of late intervention.

Red Rock's rehearing request is deficient because it fails to include a Statement of Issues section separate from its arguments, as required by Rule 713 of the Commission's Rules of Practice and Procedure.<sup>2</sup> Rule 713(c)(2) requires that a rehearing request must include a separate section entitled "Statement of Issues" listing each issue presented to the Commission in a separately enumerated paragraph that includes representative Commission and court precedent on which the participant is relying.<sup>3</sup> Under Rule 713(c)(2), any issue not so listed will be deemed waived. Accordingly, Red Rock's rehearing request is dismissed.<sup>4</sup>

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<sup>1</sup> *Utah Independent Power*, 125 FERC ¶ 62,027 (2008) and *Utah Independent Power*, 125 FERC ¶ 62,041 (2008), respectively.

<sup>2</sup> 18 C.F.R. § 385.713(c)(2) (2008).

<sup>3</sup> *See, e.g., Bear Creek Hydro Associates, LLC and Western Hydro, LLC*, 118 FERC ¶ 61,024 at P 4 & n.7 (2007).

<sup>4</sup> *See, e.g., South Carolina Electric & Gas Company*, 116 FERC ¶ 61,218 (2006); *Duke Power Company, LLC*, 116 FERC ¶ 61,171 (2006).

Moreover, no purpose would be served by granting Red Rock intervention at this stage of the preliminary permit proceedings. The purpose of seeking to intervene in a Commission proceeding is to obtain party status, which entitles the intervenor to file a request for rehearing of any final order issued in the proceeding and to seek judicial review of such orders.<sup>5</sup> As Red Rock did not file a timely request for rehearing of the preliminary permit orders, granting Red Rock intervenor status would gain them nothing.<sup>6</sup>

Red Rock's argument, in any event, is without merit. Red Rock argues that the publication of the July 9 Notices in a local newspaper on July 17, 24, 31, and August 7 constitutes discrete issuances of the July 9 Notices. Under this reasoning, a Commission-imposed deadline would reset each time a newspaper published a copy of a Commission notice. If the rule were as suggested by Red Rock, there could never be a universal reference date upon which all interested parties in a particular proceeding could rely. In this case, the notices published in the newspaper were exact copies of the actual Commission notices, which identified the issuance date and stated that the reference date for establishing a deadline for motions to intervene is the date of *issuance*, not publication.<sup>7</sup>

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<sup>5</sup> See *City of Orrville v. FERC*, 147 F.3d 979, 984 n.3 (D.C. Cir. 1998).

<sup>6</sup> The requirement that a party seek rehearing within 30 days of the issuance of a Commission order is a statutory obligation that cannot be waived by the Commission. See 16 U.S.C. § 8251(a) (2006). See, e.g., *City of Tacoma, Washington*, 105 FERC ¶ 61,333 at 62,545 (2003). Even if we were to grant Red Rock late intervention, we could not accept any subsequent request for rehearing it might file. If an entity seeks to intervene late or believes that it has been improperly denied late intervention, the entity should seek rehearing of the denial of late intervention *and* file a timely request for rehearing on the merits of the preliminary permit.

<sup>7</sup> Cf. 18 C.F.R. § 2007(b) (2008) (the “issuance” date is when the secretary does the earliest of the following: (1) posts a copy in the Division of Public Information; (2) mails or delivers copies to the parties; or (3) makes copies available to the public). In contrast, section 4(f) of the Federal Power Act states that the Commission shall *publish* notice of a preliminary permit application once each week for four weeks in a daily or weekly newspaper published in the county or counties where the proposed project is located. 16 U.S.C. § 797(f) (2006) (emphasis added).

Project Nos. 13146-001 and 13227-001

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This notice constitutes final agency action. Requests for rehearing of this dismissal notice must be filed within 30 days of the date of issuance of this notice, pursuant to 18 C.F.R. § 385.713 (2008).

Kimberly D. Bose,  
Secretary.

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