

State of Utah, Washington County work new angles to secure Lake Powell Pipeline

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The In

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On Sept. 3, the State of Utah sent a [letter](#) to the Federal Energy Regulatory Commission asking that FERC “hold the Integrated Licensing Proceeding (ILP) in abeyance for 30 days” because the Utah Board of Water Resource is reevaluating the pipeline project design. Reasons for the delay and proposed project redesign include concerns expressed by the Army Corps of Engineers and the Environmental Protection Agency to the state about the project’s size and potential environmental impacts. Then on Sept. 25, the state submitted a [request](#) to FERC to withdraw their original project licensing application.

Included as a reason in the Sept. 3 letter for the requested delay, and probably the main reason, is the [American Water Infrastructure Act of 2018, or AWIA](#), which amended the Federal Power Act to increase the maximum installed capacity for qualifying conduit hydropower facilities from five megawatts to 40 MW, streamlined the qualifying process, and exempted qualifying projects from FERC licensing jurisdiction.

As for project redesign, its expensive 300 MW pumped storage project (nearly \$700 million), specifically, will be eliminated. According to the state’s 2018 Purpose and Needs Statement for the Lake Powell Pipeline, including the pumped storage project, the project had “a combined total installed

capacity of 307.7 megawatts (MW).” So, without the pumped storage project, the Lake Powell Pipeline as currently designed would produce only 7.7 MW, well within the limits of the new AWIA of 2018.

The cost of the pumped storage project — \$700 million — has not been included by the state in the estimated \$1.1-\$1.8 billion Lake Powell Pipeline cost they advertise to the public. The additional pumped storage project cost would have bumped the total cost up to as high as \$2.5 billion, but the \$700 million was a cost that Washington County would have had to bear alone with no state financing. The storage project has been used to present a rosy cost/benefit analysis to FERC for the project, i.e. we’ll spend lots of money but make money by producing energy!

By removing the pumped storage project, licensing under FERC’s “expedited” process would not be required. FERC’s licensing process has been underway for over 10 years, with many bumps along the way. Utah went with the FERC process in hopes that it would save time, which has not been the case. By making this change, the state hopes to enjoy an easier approval process through the feds. Given the challenges they’ve faced with the current process and even after already spending over \$35 million, the state sees this as a reasonable thing to do.

The question is whether or not it will happen and how much

money will be spent. Removing the \$700 million pumped storage project from the Lake Powell Pipeline does not really reduce the overall cost of this risky project, and that is still a big problem for our state and our county's residents.

By dropping the pumped storage project, the state also hopes to ease the approval process through the Army Corps of Engineers, which has asked for answers to its environmental concerns. However, even by dropping the pumped storage project, there would still remain environmental impacts to the land from the 140-mile Lake Powell Pipeline crossing hundreds of washes, the Paria River, and the Kanab Creek Area of Critical Environmental Concern. And it certainly doesn't eliminate [the risk of transporting quagga mussels from Lake Powell](#) to Sand Hollow and then on to Washington County cities. Additionally, rehabbing a scarred desert landscape is virtually impossible.

The "general permit" that the state is trying to secure from the Army Corps of Engineers doesn't seem applicable to a project of this magnitude, but we shall see. According to the corps's website, "A general permit is issued for structures, work or discharges that will result in only minimal adverse effects." So far, I have not seen that the corps has issued a decision on the issue of "minimal adverse effects" pertaining to the Lake Powell Pipeline's current design and certainly not for the yet-to-be-determined new design.

Although this latest action by the state may get them out from under FERC's thumb, it seems from my reading of what is required under the new AWIA that after spending over \$35 million on the FERC licensing, the state will also have many requirements under AWIA including:

—Development or updating of community risk assessments and emergency response plans for community water system serving more than 3,300 people.

—Amending of state capacity development strategies with description of how asset management plans will be developed to include best practices, training, technical assistance, and other implementation activities.

The EPA's [Asset Management](#) questions that applicants must answer include, "What is the current state of my system's assets?" If the state and our district were to answer this question honestly, given our available local resources and the overuse of water in our county, I believe the answer would show that our assets are not being well managed.

Also under AWIA, there exists a program called [WIFIA, the Water Infrastructure Finance and Innovation Act](#). The program was established in 2014 under President Obama but has been amended three times since then. This is just one of several water-project loan programs managed by the EPA.

According to [Fox Business](#), “By some estimates, more than \$1 trillion in upgrades are needed to the vast system of mostly underground pipes (in our nation).” It’s clear from the intense interest in the WIFIA program — 51 letters of interest were submitted in 2019 for \$6.6 billion in funding — that there’s more need than money available to fund projects. In fact, the requests exceed the \$6 billion that the EPA is offering this year.

So with so much need in our country, it begs the question: Is Washington County’s Lake Powell Pipeline really a need? President Trump requested \$14 billion for the program. Fortunately, that request was not approved. Given our national debt and deficit, even with our nation’s water infrastructure needs, it’s wise for the EPA to be cautious in how it hands out money.

Generally, the total amount of assistance offered by the EPA to any project under WIFIA cannot exceed 49 percent of the anticipated “eligible” project costs, and “dedicated” funds must be available to repay the loan. According the information I’ve heard during the Governor’s [Executive Water Finance Board](#) meetings when WIFIA funding has been discussed, the state cannot apply for WIFIA money until a definite cost for the Lake Powell Pipeline has been determined. The state has asserted that even though \$1.1–\$1.8 billion is its estimated cost at this point, it will not have a final, definitive cost until the

project is approved. Seems like a cart before the horse thing but that's how it works, apparently.

It was noted at the March 23 Executive Water Finance Board meeting that our county would apply for the WIFIA loan, not the state. But how can the county have dedicated funds for a project of that size? Also, WIFIA would not be the only funding source. Coordinating potential WIFIA with state financing and local financing would be required, and it was mentioned at the meeting that it might be difficult for local agencies to use revenues dependent upon growth (i.e., impact fees, water rates, property taxes) to bond. Funding will also depend on the project receiving a Record of Decision under the [National Environmental Policy Act](#).

As a resident of Utah and Washington County, I'm wondering if the state will gain much in this latest effort, but that remains to be seen. It's clear that the state is pursuing any and all avenues to help secure the proposed Lake Powell Pipeline, no matter what the risk or the *perceived* need. It's also clear that America has a huge funding need for "truly necessary" water projects.

Given that, let's save our precious tax dollars for areas such as Flint, areas that have seen devastation due to storms affecting their system, and areas with truly aging infrastructure but that lack economic ability to deal with fixes.

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