

**MINUTES OF THE
LAKE POWELL PIPELINE MANAGEMENT COMMITTEE**

Washington County Water Conservancy District

136 North 100 East

St. George, Utah 84770

Tuesday, November 4, 2008

8:30 a.m.

In Attendance:

Mike Noel (KCWCD), Harold Shirley (Board of Water Resources), Ronald Thompson (WCWCD), Dennis Strong (Division of Water Resources), Scott Wilson (CICWCD), D. Larry Anderson, (Water Resources), Harold Sersland (Water Resources), L. Skrzynski (Kaibab Paiute Tribe), Corey Cram (WCWCD), Barbara Hjelle (WCWCD), and Tina Esplin, secretary.

Welcome:

Dennis Strong welcomed everyone to the meeting.

Items of Discussion:

Approval of Minutes—Minutes of the last meeting and conference call were reviewed. **Ron Thompson moved to approve the minutes of September 11, 2008 and September 18, 2008, with technical changes discussed, Scott Wilson seconded the motion, and all voted aye.**

Update on Study Plan Progress—Harold gave an update of the study plan and FERC process. He said that FERC has a different way of complying with Section 106, which is national historic preservation. FERC explained the process so we are now comfortable with it. A lot of comments have been received from the agencies on the study plans. Brian is in the process of revising those comments and in dealing with cultural resources. The Zuni and Hualapai showed up to the SHPO meeting. There was discussion that we need to talk to the individual tribes because they historically hunted and have a connection to this area. Grand Canyon is a sacred place to many tribes, and the Zuni and Hualapai are a couple. The bands are independent and sovereign, and they work pretty autonomously to take care of their own problems. Scott said they have the Paiute and the Indian Peaks Band in his area, and they are working together collectively. Harold said that it will take a lot of leg work to get feed back for religious sites and all of that sorted out, so we are going to be really busy making contact. Ron said that along the general route locally, there has been a fair amount of archeological inventory done. Harold said the plan was for Mike Polk of Sagebrush Consultants to take a mile and look at surveys on record and then do a class 3 survey. He is already doing a mile on either side, but none of the field work will get started until January 19, FERC's schedule for process. Harold said they had study plan meetings in Salt Lake City and down here in St. George. The study plan comments are due by November 19. We then revise and resubmit to FERC by December 19. FERC will then revise and send out, and the agencies will comment back by January 5. On January 19, FERC will send out the final study plans, and then we will go to work.

Harold said that there was some discussion of an appeal process. When the study plans come out, if we think there is something that has gone too far, we should be able to work it out with FERC on a day-to-day basis. FERC's consultants were in attendance at all meetings. There are estimates in each study plan except cultural resources. That is a fixed number, and they will record what they find and that determination will be whether they move the lines a little bit. Ron said his concern is that they keep stuff in the area of impact and not study some cactus somewhere on a hill. Harold said that it will be within that project corridor. Corey said that the other day the Fish and Wildlife had a request well above impacts. Harold said they are interested in secondary impacts in the St. George area. Until we get our study done, everyone wanted to join in. We get to develop alternatives, so the "no action alternative" is the state's to develop. No one has come up with an alternative or said we have a better idea. The ones that bother him are special species, plant and noxious weeds. The bottom line is that we are looking at the geology, the listed plants, so it shouldn't be like archeology where you need to look at the entire 125 foot corridor. Ron said that you only have to look on federal ground because he doesn't think there are endangered plants on private property. Harold said there are endangered plants on private but it differs on how you deal with them. There are cases where, because of endangered species on private ground, they have gotten in lawsuits. Scott said that he attended the socio economic meeting with Corey, and there were people that would like to study things way beyond the scope of our impacts. We need to have the constraint in place to bring them to what is reasonable for the project. Harold said that is what we do with FERC.

Harold said that the BLM, the Bureau and Park Service MOUs are done. Corey said that they talked about additional MOUs with permitting, the Bureau of Reclamation, BLM, FERC and the Park Service at the end of discussion last week. The initial MOU is to say work together. The second MOU is to establish schedules and relationships and commitments of how permits are issued. It may not be an MOU, but could be just a letter. There was discussion of how to bring in the BIA, who hasn't responded. Dennis said the first process is about cooperating agencies' MOUs which will be interior agencies. The tribe wants to be a cooperating agency. Dennis asked how FERC is going to work with the permitting agencies. Harold said he recalled some conversation with FERC about cultural resources. It started out in Section 7, endangered species, who is going to enforce. FERC will issue hydro facilities, but that doesn't cover BLM power system, transmission line, pipeline, and private lands. The bottom line is probably what happens is in the record of decision. Ultimately, we will end up with agreements from each agency to make sure they have a commitment of what they are required to do to get implemented. If it doesn't happen, FERC will levy fines against the state because it isn't happening. Ron said that FERC comes out and audits you. He would hate to ignore, because FERC looks at every one of those to see how you are going to accomplish that criteria. Corey said that is the end goal, but also the time frame of the NEPA process and commitment to honor deadlines and working together to get us to that point. FERC has deadlines that will all be incorporated into that agreement, and he sees it as a very important agreement.

Update on MWH Progress and Activities—Larry said that MWH has spent their time and effort on modifying the study plans from previous comments and holding meetings. They have also been doing some work on looking at a new alignment to get water to Cedar Valley. Based on the comments provided, they are looking at two different options. They only have a couple of people dealing with it, and Mark said that they are a couple of weeks away from finishing the analysis. Harold said that we have until some time prior to December 19 to get nailed down and

to all of the agencies. Ron said there are some potential ways to save a lot of money. It may make no difference to our water district, but it may be very beneficial to Iron County. They ought to talk to us because we understand the terrain and what we can and can't do. Harold said that the other thing they are doing is locating transmission lines. Larry said they have been putting together a final draft alignment making little changes here and there and doing little things so we are getting closer to final alignment. They have come out with a draft electrical alignment. There is a meeting scheduled for November 13 in Salt Lake City, where they will be talking with a number of the power companies. A draft technical memo has been sent to various power companies including Page Electric, Deseret, Dixie, Utah Power, Garkane, and we may want to send to UAMPs. We did meet with Utah Department of Transportation, Richfield Office, to talk about the alignment. Eric, Harold, Mark and Larry had a positive meeting with the new district engineer and staff. They understand now and are okay with our using their right-of-way wherever we can. Harold said they need 30 feet of clearance and then if you do a 150 foot construction easement, that puts you outside of their right-of-way. Ron said that you can narrow that up if you need to. Larry said that we said the trench would be 30 feet and if the fence is their right-of-way, we would be inside of their right-of-way. He thinks they are okay in areas where we have no other choice but to do that. Through the monument, they have another problem. There is this utility corridor, and they would prefer that we put outside of their right-of-way. They don't think they can get a right-of-way there, so they want to make sure that we leave enough room so they can expand. They see that we can help them and they think they can help us. Mike said that they already have a 400 foot right-of-way all the way through there. Larry said that there are places with big cuts where they don't think that will be enough. Ron said that if they will work with us, we can find an alignment that they will be okay with. Larry said that as we are heading west past the Cockscomb, we will probably be outside of their area. Also, the US Fish and Wildlife are big game and have a concern about the deer herd and are looking of putting under crossings under roads. They want to make sure the pipelines are far enough and deep enough so they can put in those crossings, so we will probably go outside of the highway right-of-way on that road, but we will be within the utility corridor. Those are some of the things that came out of that meeting. They have asked us to add the mile markers to their stationing. Ron said that when we finally get there, we ought to aerial fly this. Larry thinks when we get around to final design, we will do that.

Larry said that they also have a meeting with the Bureau of Reclamation and Park Service to answer how they would be part of the integrated licensing process. The Bureau of Reclamation was to ask them to run a couple of models for us with a couple of different scenarios, and they are in the process of running these scenarios. This coming month is going to be tied up in completing these study plans. They are going to spend most of their time having meetings with power folks and finishing the study of different alignments. There was discussion of taking a look at a completed pump storage project to get a feel of the dynamics.

Approval of Project Expenses— Larry passed around a memorandum showing the two pay requests since the last meeting from MWH for August and September as follows:

To-date costs to be reimbursed through the eventual sale of water are the charges by MWH and the Bureau of Land Management. MWH has billed the Division each month and staff has reviewed and approved payment.

Total at last report	\$ 4,583.055	81.4%
August 2008	\$ 194,905	3.5%
September 2008	<u>\$ 219,471</u>	<u>3.9%</u>
Total	\$ 4,997,431	88.8% of the \$5.625 M contract

He expects another pay request for October and said that there is approximately \$630,000 left that can be spent. There is certainly enough money left to go through November and possibly December. Ron said that the scope of work has changed in the last two years, and his suggestion is to have a programmatic change order, to amend the contract so there is a record to show that we have approved the work they have done, and that we have changed our direction and the scope of work. We need to make sure there is a paper trail showing that they are doing what we have directed them to do. We need to document carefully those changes so if we are audited or someone comes back, we have a general change order that reflects that. The first phase was going to be the Department of Interior and then the general scope changed when it became apparent that FERC has statutory primacy. Harold said that we started out with the notion to do under BLM and found out NEPA is in charge, FERC is just the process. We have been complying with the laws, so the process is different, and it puts a different emphasis on what we are doing. Ron said he just wants Larry to come back with a contractual change order to reflect those changes in the situation so that when we get to the end of the contract, if an auditor looks, there is a change order. **Ron made a motion to approve the expenditures, Scott seconded the motion, and all voted aye.**

Dennis said that BLM is requesting additional funds. We are proposing another \$50,000 to keep them online and want more justification on the big numbers that they have given us. Mark has the figures. Ron said that we want to make sure we are paying for only people working on this project. Mike said that there needs to be accountability, and we ought to review and see who is working on what. **Ron made a motion to approve the additional \$50,000 to BLM, Scott seconded the motion, and all voted aye.**

2009 Meeting Schedule—Dennis said that the meeting schedules for the next year are on the back of the agenda and are scheduled for January 13, March 17, May 12, July 14, September 15, and November 10. He has every other one as a conference call, but thinks that all meetings should be held in St. George and that the afternoon the day before should be blocked off so that if we chose, we can have reports from consultants and schedule other things. **Ron moved to have meeting dates as stated, Scott seconded the motion, and all voted aye.**

Other Items—Scott said that we ought to be thinking about the next Lake Powell Pipeline publication. He thinks that there has been so much disinformation. We have a lot more information now, and we need to have a real substantive discussion. The water needs assessment has been completed, and we need to continue talking about the process and what we are doing. Harold said that we are at a point, we have a good feeling about the pre-application process and the schedule, and it gives everyone a feeling of certainty. Ron said that it is critical that we keep the public educated on the project, and it is the responsibility of the districts. He talked extensively in the Waterline about our water needs assessment. He thinks we get far too technical, and people don't understand our water lingo.

Dennis said that there is a water board meeting on December 4 with discussion of Flaming Gorge water right at the East Annex at the State Capitol in Salt Lake. It is probably at 10:00, but he will send something out. Larry said that we are also having our Christmas party that afternoon at 1:00 at the Board of Water Resources and invited the water district heads. Ron said that he will come up then and work with Dallin and get an MOU together. Dennis said he appreciates all that the Management Committee does.

There being no further business to discuss, the meeting was adjourned.

Secretary