



PO Box 1540
Cullowhee, NC 28723-1540
866-262-8429

www.americanwhitewater.org

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

COMMENTS AND MOTION TO INTERVENE
OF AMERICAN WHITEWATER
IN RESPONSE TO THE OCTOBER 16, 2018 NOTICE OF APPLICATION AND
APPLICANT-PREPARED EA ACCEPTED FOR FILING, SOLICITING MOTIONS TO
INTERVENE AND PROTESTS, AND SOLICITING COMMENTS, AND FINAL
RECOMMENDATIONS, TERMS AND CONDITIONS, AND PRESCRIPTIONS, FOR
THE WEBER HYDROELECTRIC PROJECT, PROJECT NO. 1744

Submitted on: December 13, 2018

The Weber River Project diverts water around an important whitewater river reach, and significantly affects the public's ability to access, navigate, and recreationally enjoy the Weber River. American Whitewater engaged early and throughout the process seeking limited restored flow releases and improved public access to the Weber River. In this filing we seek Intervenor status and offer our comments on the applicant prepared environmental assessment (the EA).

1) Motion to Intervene

American Whitewater hereby moves to intervene in this proceeding pursuant to 18 C.F.R. § 385.210 and § 385.214. Service of process and other communications should be made, with a strong preference for electronic service, to:

Kevin Colburn
National Stewardship Director
American Whitewater
PO Box 1540
Cullowhee, NC 28723-1540

kevin@americanwhitewater.org

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954. We have over 5,500 members and 100 local-based affiliate clubs, representing approximately 80,000 whitewater paddlers across the nation. American Whitewater's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. As a conservation-oriented paddling organization, American Whitewater has an interest in the Weber River. A significant percentage of American Whitewater members reside within driving distance from this river or would travel to this area for recreation. Federal actions that affect flow, access to the river, navigation, and license compliance may potentially adversely impact opportunities for American Whitewater members to utilize the Weber River.

Intervention by American Whitewater is in the public interest as required by 18 C.F.R. §385.214(b)(2)(iii). American Whitewater has significant undeniable interests in the enjoyment, preservation, restoration, and enhancement of the Weber River. No other party to the proceeding will be able to adequately represent those interests. American Whitewater has a direct and substantial interest in the outcome of this process, and has been deeply involved throughout the relicensing process thus far.

Granting intervenor status to American Whitewater is unlikely to delay this proceeding. No other party represents American Whitewater's interests in this proceeding. For these reasons, the Commission should accept this motion to intervene in this proceeding.

2) Comments on the License Application and Environmental Assessment

The mitigation proposed for whitewater paddling on the Weber River will offer an improvement over current conditions, under which the project eliminates significant paddling opportunities. We ask that FERC adopt the recreational releases and access measures proposed in the Memorandum of Agreement. We predict that the releases will be well utilized and enjoyed by local and regional paddlers in an area without a lot of local paddling resources.

Table 11 of the License Application, page 39, outlines key whitewater paddling related protection, mitigation, and enhancement measures:

- REC-1 would provide important whitewater paddling put in access.
- REC-2 would provide valued public information on site.
- REC-3 would provide flow information that would help paddlers utilize the river during spills.
- REC-9 (with caveat below) would provide four releases annually following US Forest Service approval of a take-out site proposed by American Whitewater.

It is relatively easy for paddlers to take out upstream of the irrigation diversion dam on river left, on public United States Forest Service land. Paddlers can then portage the irrigation diversion dam on river left and put back in below the dam or take out at this location. Parking is available on public land near the irrigation diversion dam (which is itself on public land), though the 0.75-mile road to the site is currently gated. While there may or may not be rebar or other debris in the river, this is not uncommon, and there are no known safety issues with accessing or utilizing this reach which has a long history of safe recreational enjoyment.

American Whitewater will propose that a portage route around the irrigation diversion dam be formalized and vehicular access be granted to the new take out location. This route may include some simple steps at the launch site to make re-entering the river easier, when flows allow for paddling below the irrigation diversion dam. In addition, minor improvements may be desirable to facilitate parking, and the gate will need to be removed or moved. The Licensee has committed to constructing the necessary modest facilities upon approval from the United States Forest Service that the proposed take-out is acceptable.

We note that some locations in the EA (REC-9) correctly note that the only permission required for public river access post-licensing rests with the United States Forest Service. In at least two locations however the EA would wrongly require approval by the Licensee and DWCC for river access and flows. Specifically see Section 2.2.2 (page 32) and Table 11 (page 34) for the erroneous language in the Final License Application. It makes no sense for DWCC to have veto power over public recreation on public lands and waters, and indeed the MOA does not grant such power. This is likely an error associated with earlier proposed MOA language that the signatories rejected. Final license language should follow the REC-9 language from the MOA, in which the decision rests solely with the Forest Service.

On another matter, the EA mentions several times that recreational releases could cause erosion, could create barren stream bank surfaces, and could provide opportunity for weeds to become established, and then these concerns are summarily dismissed because the bypassed reach is lined with boulders and the flows are similar to modest spills. We question why the EA states these potential impacts could occur and then discusses why actually they could not occur; these concerns are simply not real issues. There are no studies or analyses that predict any of these issues or that documented these impacts during test releases. Lacking any data to support the claims, and with good cause for finding the concerns moot, we ask that these statements simply be struck from the EA.

Lastly, this marks one of several recent relicensings we have worked on in which the project is significantly upside down financially, in this case nearly \$300,000 per year in the red. We understand though question FERC's policy of not ordering removal of uneconomical projects, even when the primary reason for licensing the project is to

avoid the costs of removal. We view this policy as unsustainable, as macro trends in energy technology and markets are clearly making some hydropower projects more valuable and others far less valuable in the short and long term. Relicensing upside down projects of diminishing value is similar to allowing site banking, though instead of preventing a competing project it is preventing a competing and superior use of the river: the restoration of public values following decades of private use for power generation. While we do not make a specific request on this project, we ask that FERC consider how it intends to help Licensees and the public responsibly transition to the energy infrastructure of the future while restoring the lands and waters impacted by the energy infrastructure of the past.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Colburn', written in a cursive style.

Kevin Colburn
National Stewardship Director
American Whitewater
PO Box 1540
Cullowhee, NC 28723-1540

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

PacifiCorp)
) Weber Hydroelectric Project
) Project No. 1744
)
)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 13th day of December 2018



Carla Miner
American Whitewater
Stewardship Assistant

Service List for P-1744-000 PacifiCorp

Contacts marked ** must be postal served

Party	Primary Person or Counsel of Record to be Served	Other Contact to be Served
PacifiCorp	Mark Sturtevant Managing Director PacifiCorp Energy 825 NE Multnomah, Suite 1500 Portland, OREGON 97232 UNITED STATES mark.sturtevant@pacifiCorp.com	Todd Olson Director, Compliance PacifiCorp 825 NE Multnomah Suite 1500 Portland, OREGON 97232 todd.olson@pacifiCorp.com
Utah Department of Natural Resources	Paul Thompson Deputy Director, Recovery Prog Utah Department of Natural Resources 1594 West North Temple Salt Lake City, UTAH 84114 UNITED STATES paulthompson@utah.gov	