

BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Wyco Water and Power, Inc.)	Project No. P-14263-000
)	
Regional Watershed Supply Hydroelectric Project)	
)	

**MOTION TO INTERVENE
BY THE
COLORADO RIVER WATER CONSERVATION DISTRICT**

Pursuant to 18 C.F.R. § 385.212 and 385.214, the Colorado River Water Conservation District (hereinafter “Colorado River District”), hereby files this Motion to Intervene in the Regional Watershed Supply Project proceedings for FERC Project No. P-14263-000. In support of this motion, the Colorado River District states as follows:

1. The Colorado River District is a political subdivision of the State of Colorado created by state statute in 1937 “...to safeguard for Colorado all waters to which the state of Colorado is equitably entitled under the Colorado river compact.” Colo. Rev. Stat. § 37-46-101 (2011). The Colorado River District encompasses all or part of 15 counties within Colorado lying on the West Slope of the Continental Divide.
 - a. State law vests the Colorado River District with broad powers and responsibilities for the planning and development of the waters to which the State of Colorado is entitled from the Colorado River and its tributaries (including the Green River). In addition, the Colorado River District is authorized to conduct such actions as are necessary to promote the growth and development of the District and the welfare of the District’s inhabitants. Among the specific powers given the River District is the power to cooperate with federal agencies in the development of water resources. C.R.S. § 37-46-101 and 107 (2011).
 - b. The proposed Regional Watershed Supply Project (“RWSP”) would divert huge volumes of water from the Green River for consumptive uses in Wyoming and (primarily) on Colorado’s Front Range. The volume of water at issue would adversely impact existing

users of Colorado's entitlement to the waters of the Colorado River, and could usurp the remainder of the state's compact allocation. As recognized in its organic statute, the Colorado River District and its constituents have a direct interest in the development of the state's compact entitlement – and thus, in the proposed RWSP. The District's direct interest supports its intervention in the preliminary permit application for the RWSP. Intervention by the Colorado River District is also in the public interest of the River District's constituents.

2. The Colorado River District is opposed to the RWSP. The Colorado River District recognizes that, even if granted, a preliminary FERC permit would provide the applicant only with a temporary priority against other power interests for a FERC license application. The District also understands that FERC has regulatory jurisdiction only over the hydroelectric component of the proposed project and that other federal and state agencies have regulatory authority over the other aspects of the RWSP. Regardless of these limitations and constraints, the Colorado River District believes that the preliminary permit application should be denied because (a) power generation is not the primary purpose of the RWSP, (b) in order to pump water hundreds of miles, the RWSP likely will be a net user of power, (c) the RWSP is based on speculative water demands, and (d) numerous interstate and intrastate legal, administrative, and policy questions exist regarding the RWSP that must be carefully reviewed and resolved by federal agencies, the States of Colorado, Wyoming, and likely Utah, and local governments before a federally permitting process should be initiated (if any) for the RWSP. The Colorado River District respectfully requests that FERC deny the RWSP preliminary permit application as not ripe.
3. The few water users that have indicated an interest in the RWSP have relatively small demands – nowhere near the volume claimed by the RWSP. Moreover, none of the projected water users have demonstrated the ability to pay for the enormous cost of the project.

4. The RWSP would threaten the ability of the Colorado River District, the State of Colorado, and other public entities within Colorado to plan for the development of Colorado's remaining entitlement to the Colorado River in a responsibly conservative manner.
5. Any meaningful analysis of the RWSP by federal agencies (including FERC), state agencies, and a review of the project's impacts by local governments and the interested public cannot reasonably be accomplished until:
 - a. The State of Colorado has completed its Colorado River Water Availability Study. The draft of Phase 1 of the Colorado study indicated that Colorado could have from zero to 800,000 acre feet of remaining compact entitlement. Phase 2 of the study currently is in the planning stage as an analysis of the risks involved in the development of Colorado's remaining compact entitlement.
 - b. The Bureau of Reclamation has completed its Colorado River Basin Water Supply and Demand Study.
 - c. The consumptive and non-consumptive needs of Colorado's West Slope (the Colorado River and its tributaries) have been finalized and accepted by the River District's constituents.
 - d. Interstate and intrastate agreement has been reached on the appropriate administrative priority for any water imported from Wyoming into Colorado for the RWSP.
 - e. Final criteria for the curtailment of diversions by RWSP have been adopted by the State of Colorado.
 - f. A full evaluation has been made by state, and local governments of the amount of water (if any) available for the RWSP and the commensurate risk of the RWSP to other Colorado River water users within Colorado.
 - g. The Bureau of Reclamation has issued a contract for water from Flaming Gorge Reservoir that would provide the theoretical water supply for the proposed pipeline. A decision on such a contract necessarily will be the subject of a NEPA process. No

decision has been made by Reclamation on when (if ever) to initiate the NEPA analysis for a water supply contract for the RWSP.

CONTACT INFORMATION

All correspondence and communications concerning this proceeding should be sent to:

Colorado River Water Conservation District
Attention: General Manager/General Counsel
P. O. Box 1120
Glenwood Springs, CO 81602

WHEREFORE, the Colorado River District requests that FERC grant the Colorado River District's Motion to Intervene in the preliminary permit application of Wyco Power and Water, Inc. for the proposed Regional Watershed Supply Project.

Respectfully submitted on December 16, 2011.

**/s/ Peter C. Fleming*

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**In accordance with 18 C.F.R. § 385.2005(3)(c), this document has been electronically filed via the Commission's website <http://www.ferc.gov/docs-filing/efiling.asp>. A printed copy of this document with original signatures is maintained by the filing party and will be made available to other parties upon request.*

CERTIFICATE OF SERVICE

I, Lorra Nichols, Paralegal for the Colorado River Water Conservation District, hereby certify that on this 16th day of December, 2011, I have served the forgoing **MOTION TO INTERVENE BY THE COLORADO RIVER WATER CONSERVATION DISTRICT** electronically per Commission direction, upon each person designated on the official Service List compiled by the Secretary for the Regional Watershed Supply Project, No. P-14263-000, and that the same Motion to Intervene was electronically filed with the Commission this same day.

**/s/ Lorra Nichols*

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