

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

Re: Regional Watershed Supply Project Preliminary Permit, Project No. 14263-000
Motion to Intervene

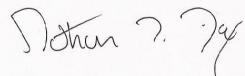
Dear Secretary Bose:

Enclosed for filing in the above referenced proceedings is American Rivers, American Whitewater, Colorado River Outfitters Association MOTION TO INTERVENE IN OPPOSITION to the Commission's October 18, 2011 Notice of Acceptance for the Wyco Power and Water, Inc.'s Preliminary Permit Application for the Regional Watershed Supply Project. Copies of this filing have been served on all parties of record to these proceedings. Thank you for your assistance. Please call me at 303.454.3395 if you have any questions or need additional information.

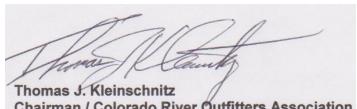
Respectfully submitted,



Matt Rice
Director of Colorado Conservation
American Rivers
1536 Wynkoop St., Office B500
Denver, Colorado 80202



Nathan T. Fey
Director, Colorado River Stewardship Program
American Whitewater
1601 Longs Peak Ave.
Longmont, Colorado 80501



Thomas J. Kleinschmitz
Chairman / Colorado River Outfitters Association

PO Box 1662
Buena Vista, Colorado 81211

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Wyco Power and Water, Inc.)	Project No. P-14263
)	Regional Watershed
)	Supply Project
)	
)	Motion to Intervene of
Preliminary Permit Application)	American Rivers, et al.

American Rivers, American Whitewater, and Colorado River Outfitters Association's Motion to Intervene in Opposition and Comments on the Preliminary Permit Application for the Wyco Power and Water Regional Watershed Supply Project

By notice dated October 18, 2011 the Federal Regulatory Commission (Commission) issued its "Notice of Preliminary Permit Application Accepted for Filing And Soliciting Comments, Motions To Intervene, And Competing Applications" for the Regional Watershed Supply Project, P-14263. The Notice provided 60 days for submission of filings. Pursuant to 18 C.F.R. § 385.214, American Rivers, American Whitewater, Colorado River Outfitters Association (Conservation and Recreation Groups) hereby move to intervene in this proceeding.

**I.
Background**

This project was first proposed before the Army Corps of Engineers. On January 20, 2009, Aaron Million, President of the Million Conservation Resource Group (MCRG) filed a Section 404 Clean Water Act Permit Application with the U.S. Army Corps Omaha District Denver Regulatory Office (Corps) for the RWSP.

On March 20, 2011, the Corps began an Environmental Impact Statement (EIS) Process under the National Environmental Policy Act to evaluate the RWSP. On July 14, 2011 the Corps sent Mr. Million a letter informing him that the Corps was officially terminating the EIS review process for RWSP. *See* letter from Kathryn M. Schenk to Aaron Million (July 14, 2011). The Corps cited missing data and missed deadlines (including a second work stoppage to explore changing the project purpose from water supply to hydropower generation) as reasons for terminating the process. The Corps explained: "[s]ince the start of the EIS process, the Corps has spent much time dealing with delays on the part of MCRG...We cannot continue to devote staff resources to a project with uncertain and variable project purpose." *Id.*, p. 2

Immediately following the Corps termination of the review process, Mr. Million sent out a press release stating that he, not the Corps, had decided to remove the Corps as the lead agency *American Rivers, American Whitewater, and Colorado River Outfitters Association's MOI and Comments Wyco Power and Water, Inc. (P-14263-000)*

to review the RWSP. The release stated that he wanted the Commission to take the lead because of its perceived expedited NEPA review process. He also changed the name of his company to Wyco Power and Water Inc.

On September 1, 2011 Wyco Power and Water filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act proposing to study the feasibility of the RWSP. The proposed project would divert and direct water from the Green River Basin to southeastern Wyoming and the Front Range of Colorado for use by municipalities, agriculture, and hydropower. Along the pipeline route, the project would include two pumped storage hydroelectric developments and five conventional hydropower developments within the pipeline with a total installed capacity of 550 megawatts (MW). The project would consist of the following: a water withdrawal facility on Flaming Gorge Reservoir and a second facility on the Green River, approximately nine natural gas powered pump stations, about 501 miles of buried pipeline, the 240 MW Lake Hattie Pumped Storage Hydroelectric Development requiring new reservoir construction on Sheep Mountain for the upper reservoir, the 240MW Wild Horse canyon Pumped Storage Hydroelectric Development with 2 new reservoirs, five conventional 14MW in-line hydroelectric developments and seven proposed transmission lines. For water distribution purposes, the project would also include 2 existing reservoirs and 2 new reservoirs that would not be part of the hydropower project.

On October 18th, 2011, the Commission issued a Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications.

II. Motion to Intervene

The Conservation and Recreation Groups are national and regional environmental and recreational non-profit organizations and for-profit businesses with an interest in protecting the Green River and other streams, rivers and natural resources in the Colorado River Basin. Each organization has a direct, organizational interest in changes in flows, endangered species, public river and lake access, watershed protection and other topics that will likely be addressed in a potential licensing proceeding for the RWSP. Each group also represents members who use these waterways, and whose use would be affected by the proposed project. Based on these interests, the Conservation and Recreation Groups request party status and offer comments on the preliminary permit application.

American Rivers is the leading organization working to protect and restore the nation's rivers and streams. Rivers connect us to each other, nature, and future generations. Since 1973, American Rivers has fought to preserve these connections, helping protect and restore more than 150,000 miles of rivers through advocacy efforts and on-the-ground projects.

Headquartered in Washington, DC, American Rivers has offices in Colorado and across the country and more than 100,000 supporters, members, and volunteers nationwide. Through our work in five key program areas - Rivers and Global Warming, River Restoration, River **American Rivers, American Whitewater, and Colorado River Outfitters Association's MOI and Comments Wyco Power and Water, Inc. (P-14263-000)**

Protection, Clean Water and Water Supply - American Rivers is working to protect our remaining natural heritage, undo the damage of the past and create a healthy future for our rivers and future generations. American Rivers' supporters in Colorado, Utah, Wyoming and nationwide value the Green River for its exceptional natural and recreational values and are concerned that the RWSP will permanently harm the river for future generations.

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954. We have over 6,500 individual members and over 100 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 Green River. A significant percentage of American Whitewater members reside in Colorado and Utah — within driving distance from this river for recreation. Federal actions that affect streamflows in the river and may potentially adversely impact opportunities for American Whitewater members to use the Green River for recreational and aesthetic purposes, including but not limited to whitewater recreation, viewing the scenic river canyon, and enjoyment of the outdoors.

Colorado River Outfitters Association (CROA) is a non-profit trade association representing approximately 50 licensed professional river rafting outfitters who specialize in providing outstanding outdoor adventures for families and individuals of all tastes and capabilities.

The organization's mission is to promote rafting in Colorado and provide a reasoned voice on legislative, regulatory and other developments that affect the commercial rafting industry, the health of local rivers and Colorado's tourism economy as a whole. The Yampa and Green River's below Flaming Gorge are popular rafting destinations in the region, with annual river-based visitation ranging from 13,000 to over 21,000 commercial clients each year. Over 14,000 commercial clients enjoyed the regions whitewater in 2010, generating \$1.7M in direct expenditures and over \$4.3M in economic benefit to the local economies.

Intervention by the Conservation and Recreation groups is in the public interest as required by 18 CFR §385.214(b)(2)(iii). The Conservation and Recreation Groups have significant interests in protecting the Green River's natural, recreational, and economic values and no other parties to the proceeding will be able to adequately represent those interests and therefore the Conservation and Recreation Groups have a direct and substantial interest in the outcome of the process.

III. **Comments on Preliminary Permit Application**

Under Federal Power Act (FPA) section 4(f), 16 U.S.C. § 797(f), “[t]o issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 802 of this title....”

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In deciding whether to grant a permit, FERC also has discretion to consider the fitness of the applicant. *See* 16 U.S.C. § 800(a) (FERC “may give preference to the applicant [whose] plans ... are best adapted ... to the public interest” and likely to be implemented). “Under an application for a preliminary permit, the Commission is concerned with the general fitness of the applicant and with his good faith and purpose to prosecute his declared intent....” *In re Wilson*, 28 F.P.C. 571, 575, 1962 WL 94549 (1962). Although denying a permit is a departure from FERC’s general policy of granting permits whenever there is no legal bar, FERC has deviated from this policy when information already available indicates no license will result. *Symbiotics, L.L.C. v. FERC*, 110 Fed.Appx. 76, 81 (10th Cir., Sept.21, 2004) (known environmental problems at a site were “analogous” to foreclosure by a permanent legal barrier).

Energie Group, LLC v. F.E.R.C., 511 F.3d 161, 164 (D.C. Cir. 2007)

The Conservation and Recreation Groups strongly urge the Commission to reject Wyco’s preliminary permit application on the grounds that: 1) there is a permanent legal bar to granting a license, 2) Wyco is an unfit applicant 3) allowing a licensing process to move forward with a slight likelihood of success is contrary to the public’s interest.

A. The Commission Should Reject the Preliminary Permit Application.

1. There are Legal Bars to Granting a License.

a. The Lake Hattie Pumped Storage Hydroelectric Development is in direct conflict with the Medicine Bow River National Forest Management Plan and would violate the Forest Service Roadless Rules.

The proposed Lake Hattie Pumped Storage Hydroelectric Development will consist of the existing Lake Hattie Reservoir, road, dam, pipeline and a new reservoir located within the Sheep Mountain Federal Game Refuge inside the Medicine Bow Routt National Forest (MBRNF). The Sheep Mountain area is designated as a National Game Refuge, and its habitat is managed by the U.S. Forest Service for the protection and propagation of game animals and birds [Medicine Bow National Forest, Wyoming (Seventh Proclamation) by the President of the United States of America (Calvin Coolidge), August 8th, 1924]. (MBRNF Forest Plan (year), p. 2-45), available at:

http://www.fs.usda.gov/detail/mbr/landmanagement/planning/?cid=fsbdev3_025109. The landscape will have a predominantly natural appearance and be relatively undisturbed by human activity. This area will continue to emphasize habitat management for deer and elk. The goal is to optimize habitat effectiveness for deer, elk and other desired native and non-native species. *See id.*

The MBRNF Forest Plan standards and guidelines for special use permits explicitly prohibits new electrical sites and utility corridors and authorizes special use permits only if compatible with refugee objectives. Additionally, the Forest Plan standards prohibit construction *American Rivers, American Whitewater, and Colorado River Outfitters Association’s MOI and Comments Wyco Power and Water, Inc. (P-14263-000)*

of new water developments (*see id.*, p. 2-46). Construction of a new reservoir, road, and pipeline clearly conflicts with these standards and is not consistent with refuge management objectives; propagation of game animals and birds and to maintain a predominately natural appearance and be relatively undisturbed by human activity (*see id.*). The proposed Lake Hattie facility's purpose diverges significantly from the stated objectives in the MBRNF Forest Plan, it is unlikely the Forest Service will grant a permit to the applicant.

According to the applicant's Preliminary Permit Application, the upper reservoir of the reservoir and all associated pipelines and roads of the Lake Hattie Facility will be located in the Sheep Mountain Inventoried Roadless Area. There is currently a nationwide permanent injunction which prohibits the Forest Service from approving any project that would violate the Roadless Rule (Cal. ex rel. Lockyer v. U.S. Dep't of Agric., 575 F.3d 999 (9th Cir. 2009) which suggests the Forest Service is unlikely to issue a permit to begin construction much less issue a permit to study the feasibility of the Lake Hattie facility.

b. There is Likely Inadequate Water to Support the Proposed Project.

According to the preliminary permit application, the water for the project "would be obtained from the Green River Basin as part of the unused portion of water allocated to the State of Wyoming and the State of Colorado, under the Colorado and Upper Colorado River Basin compacts." Preliminary Permit Application, p. 15. However, the application does not provide specific information about the availability of an "unused portion" of water, or the applicant's potential claim to use water from an adjudicated basin. Plainly the availability of water is critical to the project. The applicant should provide some reasonable assurance that water is available prior to the Commission approving the application.

Although the applicant did not clearly identify what quantity of water would be withdrawn from Flaming Gorge Reservoir and the Green River, it did provide some flow information relating to the proposed in-line hydropower facilities. The Applicant notes that flows would average 288 cubic feet per second (cfs), which translates to an average of 208,488 acre feet per year. This average is slightly below the average (250,000 acre/feet) he provided to the Corps in his previous application. Both estimates represent a significant portion of the total Green River flows, and would undoubtedly result in substantial changes in downstream flows and reservoir levels over the life of the project. This raises considerable ecological, recreational, economic concerns. Although the Commission typically studies and evaluates these types of project impacts during the licensing phase, it is unclear whether adequate water will be available to support the project after existing commitments have been met, even under the most optimistic scenarios.

The RWSP has the potential to use a major portion, if not all, of Colorado's remaining compact entitlement. It is unclear and highly disputed as to how much water Colorado has remaining to develop at a reasonable risk under the 1922 and 1948 compacts. The State of Colorado's is currently engaged in a Colorado River Water Supply Availability Study. It would be unwise for this project to proceed in any fashion until this study is completed and the State has a better idea of whether any water may be reasonably available in the first place. Right now

the best estimates indicate that this project could seriously raise the risk of a Compact Call on the Colorado River in a prolonged dry spell. It could also, by tying up the remainder of Colorado's Compact allotment, preclude any future water development on the West Slope of Colorado.

Colorado is currently studying its remaining water entitlements through the SB-122 water availability study and through roundtables and consumptive use working groups administered by the Colorado Water Conservation Board and the Inter-basin Compact Committee. Until these studies are complete, it cannot be determined if water is available to Colorado under the compacts. Until these studies are complete, the RWSP proposal is speculative and the Commission should act with prudence and reject the preliminary permit application pending the outcome of the studies.

c. The RWSP will have an adverse impact on hydropower operations at Flaming Gorge

In response to the applicants previous proposal for the RWSP, the Bureau of Reclamation (Reclamation) developed a model to give Reclamation an understanding of how much water would be available in the future for diversion for a project like the RWSP. A RiverWare model was developed to study a range of parameters.

The draft modeling report concludes that:

“Because the Green River Basin is not and will not be at full basin development until 2060, the water that would be available for diversion from Flaming Gorge Reservoir is somewhat higher in the short term as compared to the long term. The model suggests that 185,000 acre-feet per year could be diverted from Flaming Gorge over the period from 2008 to 2050 without creating a risk to the operation of the powerplant at Flaming Gorge Dam. However, as the basin reaches its full level of development near 2060, the model suggests a much lower diversion level is sustainable. After 2050, the model suggests that a diversion rate of 120,000 acre-feet per year could be sustained without risk to the operation of the powerplant at Flaming Gorge Dam.”

R. Clayton, “Proposed Green River Modeling Report - draft” (Jan. 19, 2007), p. 10.

The applicant has proposed to divert up to 250,000 acre-feet of water out of the Green River Basin which far exceeds of the limit of diversion of 185,000 acre-feet from 2008 to 2050 and 120,000 acre-feet after 2050 identified in the model that would not result in a direct risk to hydropower operations at flaming gorge. The applicant’s proposal clearly represents a direct risk to hydropower operations at Flaming Gorge.

d. The RWSP will compromise Reclamation’s ability to operate Flaming Gorge Dam in accordance with the February 2006 Record of Decision on Operations of Flaming Gorge Dam, and may jeopardize the recovery of federally endangered fish species

The purpose of the 2006 Record of Decision (ROD) on Operations of Flaming Gorge Dam is to operate Flaming Gorge Dam to protect and assist in recovery of the populations and designated critical habitat of the four endangered fishes, while maintaining all authorized purposes of the Flaming Gorge Unit of the Colorado River Storage Project (CRSP), including those related to the development of water resources in accordance with the Colorado River Compact. *See Record of Decision, Operation of Flaming Gorge Dam (2006), available at <http://www.usbr.gov/uc/envdocs/rod/fgFEIS/final-ROD-15feb06.pdf>.*

Reclamation will have two potential federal actions associated with the RWSP: the issuance of a water service contract and execution of a license agreement to build and operate an intake structure and pipeline on Reclamation administered lands. Reclamation's position on water service contracts for available water from Flaming Gorge is clear:

Reclamation's position on water service contracts for available water from Flaming Gorge Reservoir is that such new diversions cannot compromise our ability to operate Flaming Gorge Dam in accordance with the February 2006 ROD on Operation of Flaming Gorge Dam. This document prescribes flow and temperature regimes to assist in the recovery of the four Colorado River endangered fish species and their designated critical habitat downstream from Flaming Gorge Dam. Preliminary hydrology modeling performed in 2007 indicated that the maximum amount of water available from Flaming Gorge Reservoir for this proposed contract is 165,000 acre-feet per year, not taking into account new diversions from the Green River in Wyoming."

Tom Ryan, "Department of Interior Comments," eLibrary no. 20111215-5109 (Dec. 15, 2011), p. 12.

The applicant's proposal and its subsequent proposed diversion of 250,000 acre-feet from the Green River appear in direct conflict with the 2006 ROD, and would violate requirements under the Endangered Species Act to avoid jeopardizing the continued existence of the federally endangered hump back chub, Colorado pikeminnow, razorback sucker and bonytail chub.

2. Wyco Has Not Demonstrated Fitness as an Applicant.

As stated, above, on July 14, 2011, the Corps terminated the Applicant's Section 404 Clean Water Act Permit Application and the Environmental Impact Statement (EIS) evaluation process for the RWSP. The Corps cited several missed deadlines, requested work stoppages, and uncertain and variable project purpose as reasons for terminating the process, stating "[s]ince the start of the EIS process, the Corps has spent much time dealing with delays on the part of MCRG, as per regulations, the Corps has designated a single staff person to orchestrate a multitude of tasks, and we simply cannot continue to devote staff resources to a project with an uncertain and variable project purpose." Corps Letter, *supra*, p. 2.

This conduct appears to be continuing before the Commission. The application for preliminary permit is vague and lacking in specific, substantive information. As originally filed

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it did not even include basic information. Office of Energy Projects (OEP) Staff identified the following deficiencies:

1. Section 4.81 (a) requires that an applicant identify the owners or operators of any dam or facility that is part of the proposed project. Please identify the federal owner or operator of Flaming Gorge Reservoir and give the name and address of the owner of Lake Hattie.
2. Section 4.81 (b) requires that you describe the proposed project, specifying all the facilities that would be part of your proposal. Our review of your application shows that your Exhibit 3 map does not show several proposed developments. Please revise the Exhibit 3 map to identify the location of: (a) the Wild Horse Canyon Pumped Storage Project; (b) the nine natural-gas powered pump stations; and (c) the four reservoirs that you propose to build as part of the overall water supply project.

Letter from Timothy J. Welch, FERC, to Aaron Million, eLibrary no. 20111005-3004 (Oct. 5, 2011), Schedule A. It also noted that the applicant's proposed schedule did not comply with the Commission's regulations.

Based on our review, the application suggests a lack of understanding of applicable law. For instance, the Corps notes that the applicant intends to avoid Section 404 Clean Water Act regulations by modifying the project design such that no placement of fill would occur in Waters of the United States, including wetlands. This plan seems to defy section 404 and related regulations. The application does not explain how it is possible to develop a project that will require the construction of seven new reservoirs and over 500 miles of buried pipeline without placement of fill in Waters of the United States, including wetlands.

The Recreation and Conservation Groups believe that the applicant's record in regard to the RWSP suggests that the applicant does not possess the necessary competencies to develop a project on the scale of the RWSP. To date the applicant has not shown that it is capable of complying with the ILP's demanding substantive and procedural deadlines.

3. Issuance of a Preliminary Permit Application Is Not in the Public Interest.

The preliminary permit concludes that the "proposed Project would develop, conserve, and utilize, in the public interest, the water resources of the region," but it offers no basis for this conclusion. Preliminary Permit Application, p. 18. Based on the information provided in the permit application, a project of this scale would place demands on water resources that cannot be met in a manner that sustains the non-developmental beneficial uses of the river. Further, we do not believe that this project qualifies as "domestic renewable green energy generation." New, conventional hydropower is not "green" energy and pump storage facilities which make up the vast majority of the installed capacity in the RWSP typically operate with a net energy loss.

As discussed in Section III.A.1, *supra*, there appear to be legal bars to the ultimate issuance of any license for the project described in the preliminary permit application. Issuing the preliminary permit without confirming that the project is not barred as a matter of law is not in the public interest. Further, the proposed project would have significant, far-reaching adverse impacts on the human environment.

Allowing the applicant to move forward with studies to license a project that appears to be barred as a matter of law unnecessarily burdens federal and state agencies, including the Commission, the applicant and investors, and other stakeholders including municipalities, NGOs, and private businesses that depend on the Green River. The comments filed on the preliminary application to date indicate that this proceeding, if allowed to move forward, will be very controversial and resource intensive for all stakeholders. For this reason, OEP Staff should thoroughly evaluate and investigate the legal bars to license issuance in its decision whether to deny the preliminary permit application.

B. In the Alternative to Denial of the Permit Application, the Commission Should Require Specific Procedural Safeguards in the Preliminary Permit.

If OEP Staff elects to approve the preliminary permit application, the Conservation and Recreation Groups request that it impose conditions on the approval and make specific requests for studies under the permit. The proposed project would almost certainly adversely affect the Green River, a waterway with exceptionally high resource values, including recreational and other non-developmental values. The proposed project would add to the number of competing uses that already exist on the river, which means that this proceeding will affect a number of interested stakeholders.

Given the intense interest in the proposed project, any preliminary permit must be conditioned on robust consultation procedures. The permit should be issued with strict timelines and requirements that certify that the applicant is moving forward in good faith to contact and consult with federal and state agencies, landowners, regional businesses, NGOs, and other stakeholders to address concerns and issues in a transparent and timely manner to ensure that valuable resources such as staff time, tax payer dollars, and invested capital is not wasted studying a project that may be barred as a matter of law.

This approach to preliminary permits is not unprecedented for the Commission. In the past couple decades, in response to multiple preliminary permit applications for hydrokinetic projects, many of which had little likelihood of realization, the Commission adopted a policy of applying “strict scrutiny” to preliminary permit holders to ensure that the applicant was actively pursuing project advancement. Under this policy, the Commission would carefully review the reports that permit holders are required to file on a semi-annual basis. If the Commission found that sufficient progress was not made, then the Commission would consider canceling the permit.

If the applicant is granted a preliminary permit for the RWSP, the Conservation and Recreation Groups strongly recommend that the Commission use its authority to require the applicant to demonstrate within 3 months and in subsequent semi-annual progress reports its plan

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for successfully developing the project in a manner that demonstrates that study of the project is progressing in good faith and that applicant is diligently addressing all permitting requirements and the wide-range of environmental issues raised by the proposal. If the applicant fails to do so, the Commission should revoke the preliminary permit application.

In addition to conditioning any permit on procedural safeguards, OEP Staff should require the applicant to conduct specific studies that will address, at a minimum, the issues listed below, consistent with 18 C.F.R. § 4.81(c). The issues listed below go to “determining the technical, economic, and financial feasibility of the proposed project, taking into consideration its environmental impacts, and of preparing an application for a license for the project.” *Id.* at § 4.81(c)(i). The description of studies provided in the Preliminary Permit Application is too vague to determine whether the applicant will gather adequate information to address the feasibility and environmental impacts. *See* Preliminary Permit Application, p. 19. We also request that OEP Staff require adequate studies that will inform an evaluation of cumulative impacts of the proposed project *in its entirety* (*see* 40 C.F.R. § 1502.4), and not just those parts that will fall directly under the Commission’s licensing jurisdiction. *See* 40 C.F.R. § 1502.4.

- How will the proposed project conform to the specific standards and objectives stated in the Ashley and Medicine Bow Routt National Forest plans, which based on our review, include standards that cannot be reconciled with the proposed project? Specifically, how does the applicant intend to acquire special use permits to conduct preliminary feasibility studies which appear in conflict with forest standards and objectives and would violate the Forest Service Roadless Rules.
- Is there water available under Colorado’s Upper Basin compact allotment to operate the proposed project?
- Is the proposed project, including the proposed diversion from the Green River out of the Colorado Basin and the subsequent reduction in downstream flows, likely to jeopardize the ongoing existence of listed species (e.g., federally endangered Colorado pikeminnow, razorback sucker, humpback chub, and bonytail chub) and/or their critical habitat?
- Will the proposed project, including the proposed diversion from the Green River and the subsequent reduction in downstream flows, interfere with or otherwise harm the outstanding and remarkable values (ORV’s) of the 13 mile reach below the Flaming Gorge Dam that was recently found suitable under the Wild and Scenic Rivers Act?
- Will the proposed project harm, or otherwise interfere with, the hydropower operations at Flaming Gorge Dam?

- How will the applicant meet all deadlines and requirements under the Integrated Licensing Process, and all deadlines and requirements required by other federal agencies that may require additional permits?
- How will the applicant fund the administrative permitting costs, as well as project construction costs?

If the applicant is unable to demonstrate in a timely manner that it can adequately address these issues, then the Commission should use its authority under the Federal Power Act to revoke the permit.

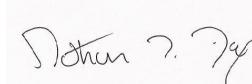
Conclusion

For the above stated reasons the Conservation and Recreation Groups request that the Commission grant this motion to intervene and deny the preliminary permit for the RWSP. If the Commission feels that, despite the significant and insurmountable barriers RWSP faces, issuance of a preliminary permit is still in the public interest, the Conservation and Recreation Groups request the Commission require the applicant demonstrate in a timely manner that it can overcome the above stated project barriers.

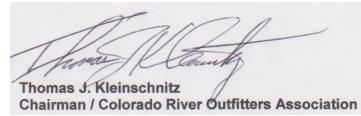
Respectfully Submitted,



Matt Rice
 Director of Colorado Conservation
 American Rivers
 1536 Wynkoop St., Office B500
 Denver, Colorado 80202



Nathan T. Fey
 Director, Colorado River Stewardship Program
 American Whitewater
 1601 Longs Peak Ave.
 Longmont, Colorado 80501



Tom Kleinschnitz
Chairman, Colorado River Outfitters Association
PO Box 1662
Buena Vista, Colorado 81211

CERTIFICATION OF SERVICE

Wyco Power and Water, Inc., Regional Water Supply Project No. 14263-000

I, Matt Rice, hereby certify that I have this day served by electronic mail the foregoing document, "American Rivers, American Whitewater, and Colorado River Outfitters Association's Motion to Intervene in Opposition and Comments on the Preliminary Permit Application for the Wyco Power and Water Regional Watershed Supply Project," upon each person designated on the official service list compiled by the Secretary in the P-14263 docket.

Dated: December 16, 2011

By:



Matt Rice
Director of Colorado Conservation
American Rivers
1536 Wynkoop St., Office B500
Denver, Colorado 80202
mrice@americanrivers.org