

Choosing the Lead Federal Agency for the Lake Powell Pipeline FERC or BLM?

The Code of Federal Regulations outlines the criteria for selecting a lead agency on a project:

- 1) Magnitude of agency's involvement
- 2) Project approval/disapproval authority
- 3) Expertise concerning the action's environmental effects
- 4) Duration of agency's involvement
- 5) Sequence of agency's involvement

Citizens for Dixie's Future perspective:

Magnitude of agency's involvement

The BLM will have a significantly larger role in Lake Powell pipeline issues than FERC. The BLM will need to address specific land management issues on the majority of 130-plus miles of pipeline right of way. Indeed, the BLM has already been earnestly involved in pipeline issues for at least five years. FERC's jurisdiction is limited to issuing hydropower licenses to two small plants (and a possible third plant) after the pipeline is mostly constructed. Pipeline proponents started interacting with FERC in earnest on the project in 2007.

Project approval/disapproval authority: FERC will not have the authority to approve or disapprove the proposed pipeline. The BLM will. FERC's jurisdiction is limited to post-construction hydropower licensing. The BLM's jurisdiction covers the spectrum from endangered species and NEPA on rights of way to revegetation and visual resource management.

Expertise concerning the action's environmental effects:

The BLM has extensive expertise concerning the action's environmental effects due to its mission and 70-plus year involvement in southern Utah land management issues. FERC is a newcomer to these issues and operates under a mission that creates expertise regarding only a fraction of the action's environmental impacts.

Duration of agency's involvement:

The BLM has already been involved in pipeline matters for more than 5 years and would continue to be involved in post-pipeline collateral impacts for decades to follow. The State of Utah has already set aside \$20,000 to cover BLM expenses associated with pipeline issues. To date, at least \$8,500 has been spent. FERC's jurisdictional role would be limited to licensing hydropower plants that would be authorized only after the pipeline is mostly completed. A previously established exception to FERC's relicensing of State-owned water conduits would likely eliminate FERC's traditional 50-year relicensing role and could leave the agency without jurisdiction even before pipeline construction is complete.

Sequence of agency's involvement:

The BLM has been engaged in pipeline issues for more than 8 years. BLM approvals will be necessary prior to FERC's authorization of hydropower licenses.