

Stranded Midstream: Cause and Consequence of Hydropower Regulatory Delay

Hydropower Reform Coalition
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TABLE OF CONTENTS

	Page #
I. Introduction	
A. Background.....	1
B. Methods.....	3
II. Results	
A. Clean Water Act.....	8
B. NEPA and Cumulative Effects Analysis	11
C. Fish Passage and Federal Lands Protection	12
D. Settlements.....	13
E. Unconstructed Projects	14
F. Dam Removal	15
G. Other Issues	
1. Endangered Species	16
2. Tribal Consultation	17
H. Summary.....	18
III. Solutions	
A. Primary Recommendations	
1. Strictly Limit And Condition The Issuance Of Annual licenses	19
2. Ensure Timely And Complete Studies And Applications	19
3. Establish A Joint Schedule For Relicensing	20
4. Involve FERC Staff Early In The Licensing Process	20
5. Require FERC To Issue Staff Draft License Articles For Public Comment.....	20
6. Require More Flexible Conditions, Including “Adaptive Management” And “Reopener” Provisions.....	20
7. Establish Agency Procedures And Deadlines For Submitting Draft And Final Licensing Conditions And Stick To Them	21
B. Additional Recommendations	
1. Expect Cooperative Development of Environmental Documents	21
2. Consolidate Licenses On A Watershed Basis.....	22
3. Continue to encourage collaboration and settlement	22
4. Provide necessary funding for agency participation.....	22
5. FERC and agencies should revise practices under the ESA.....	23
6. Increase Cooperation among FERC and Resource Agencies	23
7. Respect Tribal Sovereignty.....	23
C. Conclusion	24

I. Introduction

Rivers are the lifeblood of America. They travel through virtually every community. They are the source of recreation, commerce, ecological stability and services, and even spiritual renewal. For some of these very same reasons, rivers are also a source of tension, controversy, and conflict. The past 100 years have witnessed an unprecedented level of development on our nation's rivers. Perhaps the most prevalent and dramatic change has been in the name of dam construction for electricity generation. While society has received some benefits for that development, it has also come with significant costs to the environment and non-developmental uses of our rivers. Fundamentally, it is this tension that we address in this report.

On December 10th and 11th, 2001, the Federal Energy Regulatory Commission (FERC) will hold a public workshop to "...focus on the 51 oldest pending [hydropower dam] license applications filed at the Commission." In advance of FERC's workshop, the Hydropower Reform Coalition—representing more than 100 river conservation and recreation organizations from across the nation—has compiled this report to take a closer look at these 51 projects and analyze the causes and impacts of delay, followed by a series of solutions that will enable us to pass on a legacy of healthy rivers *and* provide a reliable energy supply to future generations.

While we found a range of factors responsible for delay in the licensing of hydropower dams by FERC, the common result in most cases was that the environment—public rivers—suffered. The longer it takes to issue modern licenses for hydropower dams, the longer our rivers suffer from antiquated dam operations that leave them unhealthy and unusable for local communities.¹

A. Background

Dams harm the physical, chemical, and biological function of rivers by disrupting flows, degrading water quality, and blocking passage of fish and other species. Although hydropower's energy source—water—is relatively renewable, the river ecosystems that dams affect are not. The profound impacts of hydropower dams on river systems have been widely documented in scientific literature.

It is important to remember that rivers are owned by the public. In exchange for the privilege of using the public's rivers for private hydropower development, dam owners must ensure that their operations minimize impacts on the river and surrounding lands, and ensure that multiple uses of the river are accommodated. Licenses to operate non-federal hydropower dams last 30 to 50 years. At the end of that license term, the dam owner must apply to FERC for a new license. It has always been Congress' intent that at the end of a license term, the Federal government reviews its commitment of the public's resource based on the knowledge and values of the time. This is a once-in-a-

¹ This is not the case with new dam construction where the river certainly will be better off without a license or a hydropower dam.

lifetime opportunity to modernize the operations of these dams to protect the public's natural resources.

The licensing process for hydropower dams is necessarily complex, involving multiple stakeholders. Unlike most electricity generating technologies, hydropower does not have “end of pipe” standards to ensure that the dam's operations do not unduly damage the environment. This is because every dam and every river is different, and generic standards cannot be applied to every project. Most hydropower dam licensing conditions—including conditions to protect natural resources—are determined by FERC after giving equal consideration to power (electricity generation) and non-power (fish and wildlife protection, recreation, *etc.*) benefits of the river. The economics of the hydropower facility are taken into account in this balancing process.

Congress, however, determined that some basic environmental protections must be afforded at every dam, and should not be balanced away to promote cheap hydropower. These basic protections assure that: (1) fish can be passed upstream and downstream of a dam; (2) if the private dam is located on federally-owned land, the uses of the federal land are protected; and (3) the dam does not result in a violation of state-developed water quality standards. Courts have confirmed that the Federal Power Act gives state and federal environmental agencies with expertise in each of these areas, the authority to develop license conditions that FERC must include in the license. These are commonly called the “mandatory conditioning authorities.”

Because utilities are granted virtual monopolies on segments of public rivers, the stakes are extremely high at licensing. The dams currently seeking license renewal or “relicensing” were last licensed before enactment of modern environmental laws such as the Clean Water Act and the Endangered Species Act, and at a time when there was little understanding of the impacts of dams on rivers. Licensing is the single tool available to ensure that these dams appropriately protect wildlife, water quality, and recreation.

When the relicensing process extends beyond the five-year process overseen by FERC, the environment often bears the most significant burden. Under current regulations, FERC issues the dam owner an ‘annual license’—year after year—that allows it to continue producing electricity under the terms of the previous license until a new license is issued. This means that lights remain on and electricity is still produced even though the license has expired. Utilities generate this power under 30 to 50-year old conditions, further delaying the implementation of environmental protections.

In practical terms, this means that stretches of river may remain dry, fish may continue to bump up against dams instead of passing around them, anglers and boaters may continue to have difficulties accessing the river, tribes' cultural resources continue to be threatened, and the river falls short of basic water quality standards. On average, the projects that are the subject of this report have been granted 7 annual licenses to date, for a total of 247 years of annual licenses.

Renewing those licenses involves taking “grandfathered” projects and requiring them to install more modern equipment and operate them with more than just power in mind. While delays in the relicensing process result in no loss in electric generation, it is also true that enforcing the environmental requirements of a new license has little impact on power supply. FERC’s own data shows that on average a hydropower project receiving a new modern license decreases its generation by only 1.6% while capacity actually increases by an average of 4.6%.² The delayed projects in this sample represent only slightly more than 1,000 megawatts of electricity (an average of 20 MW). Some of these dams represent economically marginal and ecologically harmful projects that parties have agreed to decommission and remove (see Dam Removal section), but most are expected to continue to generate electricity profitably after environmental upgrades.

Hydropower licensing is fundamentally about outcomes—outcomes for our rivers, our local communities, and power supplies that will be realized for 30 to 50 years after a new license has been issued. This goal requires careful and deliberate decision making. These are complex issues with many competing interests. Because it represents a once-in-a-lifetime opportunity to get it right, that can mean that deliberate decision-making is warranted and necessary. More often, delays unnecessarily prolong injury to river ecosystems and postpone economic development opportunities of a healthy river.

The authors applaud the Commission for undertaking this first step in trying to clear the books of these delayed projects and as they move forward with their goal of “...find[ing] solutions” at its December 2001 hearing, we urge them to find solutions that do not threaten the health of our nation’s rivers. In the conclusion of this report, we offer a series of solutions that address several of the problems that cause delays in hydropower licensing. While there are a number of issues commonly associated with delay, they seem to share several underlying causes. Utility foot-dragging and interagency bickering are two of the most common. To remedy these problems, Congress should pass relicensing reform legislation that directs FERC to better cooperate with states, ensures more efficient, complete, and comprehensive reviews of projects and their impacts, and better enables environmental agencies and tribes to ensure that 50 year licenses will meet environmental standards throughout their terms.

We call on Congress to make reasoned changes that allow good decision making to protect our natural resources and still provide affordable energy. As the Hydropower Reform Coalition’s solutions suggest, there are ways to ensure licensing happens on time while protecting the outcome for our rivers.

B. Methods

Undertaking an analysis of an agency’s decision-making process is a difficult task. Doing so with a limited time frame is more so. Adding to that inconsistent or unavailable data is an even greater challenge. The authors undertook this study in an effort to analyze

² Federal Energy Regulatory Commission, “Report on Hydroelectric Licensing Policies, Procedures, and Regulations: Comprehensive Review and Recommendations Pursuant to Section 603 of the Energy Policy Act of 2000”, May 2001; Pub. L. No. 106-489, 114 Stat. 2207 (November 9, 2000).

a subset of hydroelectric projects whose license applications have been awaiting final action for more than five years. These projects are the subject of a two-day meeting at the Federal Energy Regulatory Commission (FERC) to identify next steps toward their completion. Therefore, our sample was already defined for us. A list of the 51 projects and their locations can be found in Table 1.

In order to analyze the causes for delays at each of these 51 projects, the authors collected basic hard data on each project, including descriptive information about the project, dates of actions and decisions, and characteristics of actions taken. Unfortunately, hard data on these projects is limited, inconsistent, and difficult to access. Similar problems stymied the General Accounting Office (GAO) when they undertook a similar analysis in 2000 and presented their results to Congress in April 2001.³

“(FERC) needs complete and accurate data on process-related time and costs by participant, project, and process step. Currently, the Commission does not systematically collect much of these data.”

“...without complete and accurate time and cost data and the ability to link time and costs to projects, processes, and outcomes, the Commission cannot assess the extent to which the observations and suggestions—or any recommended administrative reforms or legislative changes—might reduce the length and costs of the process.”

The authors relied upon both quantitative and qualitative methods including review of FERC documents and participant surveys and questionnaires. Due to FERC’s data limitations described above, some of the data was generated from information for each project found on FERC’s two part electronic filing system known as RIMS and CIPS. Based upon a review of common criticisms and critiques of relicensing, the authors also developed a survey consisting of a series of questions which we posed to participants in each of the 51 cases. While this information is somewhat subjective, it did provide a more nuanced perspective of the projects that mere dates could not provide. Respondents chose from a list of 11 issues potentially associated with licensing and also identified those they felt were specifically related to delay.

In addition to choosing from the list of issues associated with delays, respondents were asked to provide a narrative explanation of the project including ecological issues and procedural histories. The authors utilized these narratives to examine underlying causes for delays associated with various issues. For example, if a respondent indicated that water quality certification was an issue associated with delay, that person’s narrative may have gone on to explain that the cause of that delay was really a dispute between the state agency and the applicant about adequacy of supporting evidence and completeness of the application. These anecdotes played an important role in the analysis sections.

³ General Accounting Office, “Hydropower Licensing Projects: Better Cost and Time Data Needed to Reach Informed Decisions About Process Reforms,” GAO-01-499, May 2001.

Finally, the authors relied on data and analysis from other recently published reports and documents from FERC, the Department of the Interior, and industry. Some of the findings in this report are consistent with those documents, while others are not.

Table 1: Rivers and Hydropower Project in the Sample

River	State	Project Name	Applicant Name
Fossil Creek	AZ	Childs-Irving	Arizona Public Service Company
San Luis Rey River, discharges to Paradise Creek	CA	Escondido	City of Escondido
North Fork Willow Creek, South Fork Willow Creek, Chilkoot Creek, Chiquito Creek (tributaries to the San Joaquin)	CA	Crane Valley	Pacific Gas and Electric Company
Pit River	CA	Pit 1	Pacific Gas and Electric Company
Angel Creek	CA	Angels	Calaveras County Water District
Lytle Creek (Santa Ana River)	CA	Lytle Creek	Southern California Edison Company
Santa Ana River	CA	Santa Ana Nos. 1 & 2	Southern California Edison Company
Mill Creek (Santa Ana River)	CA	Mill Creek 2 & 3	Southern California Edison Company
Mill Creek and Angels Creek	CA	Utica	Calaveras County Water District
Snake River	ID	Bliss	Idaho Power Company
Snake River	ID	Lower Salmon	Idaho Power Company
Snake River	ID	Upper Salmon Falls	Idaho Power Company
Androscoggin River	ME	Gulf Island-Deer Rips	Central Maine Power Company
Sebasticook River	ME	Burnham	Ridgewood Maine Hydro Partners, L.P.
Damariscotta River	ME	Damariscotta Mills	Ridgewood Maine Hydro Partners, L.P.
Dead River	ME	Flagstaff	Florida Power and Light (purchased from Central Maine Power Company)
Ontonagon River	MI	Bond Falls	Upper Peninsula Power Company
Thornapple River	MI	LaBarge Dam	Commonwealth Power Company
Pine River	MI	Municipal Dam	City of St. Louis, Michigan
Thornapple River	MI	Middleville	Commonwealth Power Company
Dead River	MI	Dead River	Upper Peninsula Power Company
Thornapple River	MI	Irving	Commonwealth Power Company

River	State	Project Name	Applicant Name
St. Regis River, West Branch	NY	Parishville	Erie Boulevard Hydropower, L.P.
St. Regis River, West Branch	NY	Allens Falls	Erie Boulevard Hydropower, L.P.
Hudson River	NY	Glens Falls	Finch, Pruyn, and Company, Inc.
Genessee River	NY	Station 160	Rochester Gas and Electric Corp.
Oswego River	NY	Oswego River	Erie Boulevard Hydropower, L.P.
Sacandaga River (Great Sacandaga Lake)	NY	EJ West	Erie Boulevard Hydropower, L.P.
Hudson and Sacandaga rivers	NY	Hudson/Sacandaga	Erie Boulevard Hydropower, L.P.
Hoosic River	NY	Hoosic	Erie Boulevard Hydropower, L.P.
Hudson River	NY	Feeder Dam	Erie Boulevard Hydropower, L.P.
Mohawk River	NY	School Street	Erie Boulevard Hydropower, L.P.
Raquette River	NY	Middle Raquette	Erie Boulevard Hydropower, L.P.
Raquette River	NY	Lower Raquette	Erie Boulevard Hydropower, L.P.
Poultney River	NY/VT	Carver Falls	Central Vermont Public Service Corp.
North Umpqua River and tributaries	OR	North Umpqua	PacifiCorp
Susquehanna River	PA	Dock Street	City of Harrisburg, Pennsylvania
Lamoille River	VT	Lamoille River/ Waterbury	Central Vermont Public Service
Clyde River	VT	Clyde River	Citizens Utilities Company
Sucker Brook	VT	Silver Lake	Central Vermont Public Service Corp
Rocky Creek, tributary of Skagit River	WA	Rocky Creek	Skagit River Hydro
Irene Creek, tributary of Skagit River	WA	Irene Creek	Cascade River Hydro
Anderson and Four mile Creeks	WA	Anderson Creek	Washington Hydro Development Co.
Snoqualmie	WA	Snoqualmie Falls	Puget Sound Energy
White Salmon River	WA	Condit	PacifiCorp
Warm Creek	WA	Warm Creek	Warm Creek Hydro, Inc.
Martin and Kelley Creeks	WA	Martin Creek	Skykomish River Hydro
Clearwater Creek	WA	Clearwater Creek	Nooksack River Hydro Inc.
Wisconsin River	WI	Prairie du Sac	Wisconsin Power and Light Company
Wisconsin River	WI	Petenwell Castle Rock	Wisconsin River Power Company

River	State	Project Name	Applicant Name
Chippewa River	WI	Holcombe	Northern States Power Company

II. RESULTS

Last May, FERC issued a report to Congress at their behest, examining the causes for excessive costs and delays in hydropower licensing.¹ They did a variety of analyses and reached a number of conclusions, many of which were strongly criticized by the General Accounting Office, states agencies, and environmental organizations. Despite problems with FERC's report, several of its findings are similar to those of this report. Like FERC, we find an association between delayed hydropower licensing proceedings and several of the issues identified below. However, while FERC asserts that this association implies causation, the authors find that reaching such conclusions grossly oversimplifies the complexity of the issues involved and appears to be motivated by efforts to claim sole decision making authority.

In particular, FERC indicted state agencies and their administration of the Clean Water Act as a chief cause of delay. Its proposed remedy is to dramatically narrow the applicability of the Clean Water Act to hydropower dams. However, FERC's report only establishes an association between Clean Water Act certification and relicensing delays, but fails to identify the actual causes for delay. As such, a proposal to modify the Clean Water Act is not warranted. Instead the authors believe that the best way to get at the underlying causes for delays is to look at the associated issues and consider common elements that can be improved or eliminated. Following this section, we offer a series of recommendations that address many of these underlying causes for delay.

A. Clean Water Act (CWA)²

State agencies issue water quality certifications for a wide variety of federally licensed or permitted projects that affect water quality including road construction, dredging operations, and dam construction and operation.³ Although the authors did not do an exhaustive analysis of the states' exercise of this authority in other regulatory arenas, based upon several interviews and recent testimony before Congress, it appears that in some states delay is not common outside of hydropower cases.

“Vermont is able to have a 401 certification turnaround time of approximately 2 - 9 months (with an average of five months) for major projects such as major highway and water withdrawal projects for ski area snowmaking...expensive, long-term projects – much like hydroelectric dams. In Vermont, this kind of turnaround is typical of our CWA 401 certification program.”⁴

¹ Federal Energy Regulatory Commission, “Report on Hydroelectric Licensing Policies, Procedures, and Regulations: Comprehensive Review and Recommendations Pursuant to Section 603 of the Energy Policy Act of 2000”, May 2001; Pub. L. No. 106-489, 114 Stat. 2207 (November 9, 2000).

² Similar issues apply to state authority under the Coastal Zone Management Act. The authors did not look at this separate but similar process.

³ This is commonly referred to as “Section 401”, 33 U.S.C. § 1341

⁴ Ron Shems, representative for the State of Vermont in testimony before the House Subcommittee on Energy and Air Quality, June 27, 2001

Problems with hydropower licensing and certification under Section 401 of the CWA have been the subject of much discussion and debate. The issues underlying this debate include jurisdictional disputes between FERC and some states, disagreements over the scope of conditions allowable under the CWA, and availability of timely and complete information for state decision-making. Of the 51 projects in this sample, 34 have or had delays associated with water quality certification. FERC identified 14 projects with outstanding water quality certifications.

This report finds that the most common underlying cause for delays associated with water quality certification involve study and information disputes. Most original licenses do not contain license articles that require the licensee to monitor the effects of project operations. Therefore, many licensees have no associated data on water quality, fish populations, recreation use, or other relevant issues. Given the lack of existing data, and our evolving understanding of river ecosystems, new studies are often necessary to make well-informed and well-supported decisions. These studies can take several years to conduct in order to gather representative information and are often complicated by the number of resources affected by the project. However, without this information, agencies are unable to set environmental conditions.

Often, utilities do not provide timely and complete information in their applications, causing FERC, environmental agencies, and other interested parties to request additional information. Of the 157 relicensing applications filed by utilities in 1993, *only nine* provided sufficient scientific information about project impacts, forcing FERC to issue hundreds of additional information requests in the other 148 cases.⁵ These requests can be substantial and involve additional field seasons setting back licensing decisions months or years. The Department of the Interior found in an April 2001 analysis that the average time from filing of an application to issuance of a Ready for Environmental Analysis notice is almost 2 full years.⁶ This is typically the time when applicants are required to provide additional information. For this sample of projects, the time is more than double that – taking 4.5 years to complete.

Compounding this problem is the Commission's policy to require license applicants to provide only those studies and information that FERC deems necessary for its *own* decision making process.⁷ In the case of water quality certification, if FERC disagrees with a state about what studies are necessary, the state has no independent authority to require a license applicant to complete them. The state is left with few options undertake the study itself at a cost to the public, deny water quality certification based on incomplete information (leading to relicensing delays), or waive its authority and issue no conditions necessary to protect water quality.

⁵ Barnes, *FERC's "Class of '93": A Status Report*, Hydro Review (Oct., 1995).

⁶ Federal Energy Regulatory Commission, "Report on Hydroelectric Licensing Policies, Procedures, and Regulations." May 2001 and Department of the Interior, Comments to FERC on Docket No. PL01-1-000, Hydroelectric Licensing Policies, Procedures, and Regulations, by William Bettenburg, April 16, 2001.

⁷ 18 CFR § 4.38(b)(5)(vi) states "...an application will not be considered deficient...merely because the application does not include a particular study or particular information if the Director had previously found...that such study or information is unreasonable or unnecessary for an informed decision by the Commission..." emphasis added

“The Department attempts to fully support its recommendations with study results, but often applicants won't conduct necessary studies and FERC won't require applicants to conduct the necessary studies.” *Wisconsin Department of Natural Resources in a letter to Senator Russell Feingold, October 10, 2001*

There also is a significant discrepancy between the timing of certification procedures in FERC's regulations and the one-year statutory limit for certification allowed by the Clean Water Act.⁸ FERC currently requires applicants to demonstrate that they have applied for water quality certification when they submit their licensing application to the Commission. At that stage, FERC has not yet undertaken its environmental analysis upon which the states rely to inform their decisions about water quality certification. Such analysis often takes far more than a year to complete, forcing a state agency to deny certification, waive its authority for certification, defer environmental upgrades, or urge the applicant to withdraw and resubmit its request. The latter is most common. The Commission has identified the need to complete 16 draft and 5 final NEPA documents while they identified only 14 outstanding water quality certifications.⁹ The lack of NEPA documents is clearly a factor in late water quality certifications.

Finally, the substantial length of FERC licenses makes the States' need to assure ongoing compliance with the Clean Water Act more difficult. Unlike permits issued for sewage treatment facilities, coal or gas-fired power plants, or hazardous waste facilities that are on a five or seven-year licensing cycle, hydroelectric facilities are reviewed once every 30 to 50 years. The length of the licensing term therefore reduces states' flexibility and raises the stakes. States must feel confident that their conditions will be effective over the duration of the license which is difficult to do over 50 years. To ensure that water quality is adequately protected for the duration of the license, several states have called for either shortening the licensing term, or alternatively, creating a mechanism for periodic review during the licensing term.¹⁰

While state agencies are not without fault for delays in water quality certification, discrepancies between the Clean Water Act and FERC's regulations and general disagreements between the states and FERC are the most prominent reasons for delays. Licensing delay can be attributed to the lack of a firm requirement to complete the state required resource studies on time, FERC's regulations requiring the premature filing of the 401 request, the lack of cooperation between agencies, the failure to set a schedule for the development of the draft and final NEPA documents, and the need for states to ensure consistency with water quality standards over the duration of the license.

⁸ 33 U.S.C. § 1341

⁹ FERC Powerpoint presentation, “Hydro Licensing Status Workshop, December 10 and 11, 2001,” www.ferc.fed.us

¹⁰ Letter from the State of California to Senator Diane Feinstein, 10/1/01, and letter from the State of Wisconsin to Senator Russell Feingold, 9/24/01

B. NEPA and Cumulative Effects Analysis

The National Environmental Policy Act (NEPA)¹¹ requires major federal actions such as the licensing of hydroelectric facilities, to be accompanied by an environmental review, typically an environmental assessment (EA) or environmental impact statement (EIS). This process can be costly and time consuming but the document forms the basis for state and federal environmental agency decisions as well as those of FERC. Delays associated with environmental reviews are often due to disputes among participating agencies, a failure by FERC to set a schedule, or complexities involved in drafting multiple project reviews.

FERC is the lead agency for hydropower licensing decisions and therefore controls the timing and content of environmental reviews conducted under NEPA. Under current regulations, FERC is not required to provide a schedule or deadlines for completion of its draft or final NEPA documents. While this report did not look at the time FERC takes to complete environmental reviews, FERC's 603 Report (May 2001) and a Department of the Interior analysis calculated that it takes an average of 2.5 years to issue a license from the time that a notice that the project is "ready for environmental analysis" (REA).¹² The principle activity during that time is publishing NEPA documents.

Another problem associated with NEPA is that the lack of cooperation between FERC, federal and state agencies in conducting the necessary environmental analysis often leads to the development of multiple environmental documents. In order to support each of the different agency decisions, each must provide a supporting environmental review. This has resulted in delays and increased costs on all parties. Many of the cases in this report appear to have required supplemental documents or addenda to satisfy the needs of state or federal agency decision makers.

Increased coordination among the parties could facilitate a more timely environmental analysis and relicensing process. However, the Commission almost never engages in cooperative efforts with state agencies. And federal environmental agencies are often reluctant to cooperate with FERC because the Commission's internal procedures prohibit formal cooperating agencies from later intervening in the proceeding. This prohibition effectively removes an agency's right to appeal a final Commission decision. Such a trade-off leaves federal environmental agencies with little choice but to avoid cooperation and hope that either FERC's environmental review will be adequate or that it can develop a supplemental review to cover its needs.

Finally, at least 30 projects in this sample involve multiple FERC-licensed hydropower projects in a single river basin, often with different license expiration dates. FERC has recognized the benefit of coordinating these expiration dates to better allow

¹¹ 42 U.S.C. § 4321 et.seq.

¹² Federal Energy Regulatory Commission, "Report on Hydroelectric Licensing Policies, Procedures, and Regulations." May 2001 and Department of the Interior, Comments to FERC on Docket No. PL01-1-000, Hydroelectric Licensing Policies, Procedures, and Regulations, by William Bettenburg, April 16, 2001.

state and federal environmental agencies to draft environmental reviews or make decisions and recommendations about management of an entire watershed. By delaying or accelerating the relicensing of one or more facilities in order to coordinate NEPA analysis and licensing with other projects in the same basin, FERC sometimes has allowed delays for individual licensing proceedings with the cooperation of the licensee and for the good of the resource. For several other projects in this sample where there are multiple FERC licensed projects, no such coordination is taking place.

C. Fish Passage and Federal Lands Protection

So-called “mandatory conditions” which grant federal environmental agencies the authority to require conditions for fish passage and public lands protection have been the subject of numerous Congressional hearings, reports, and debate.¹³ Some argue that they are responsible for significant delays to the relicensing process.¹⁴ However, based upon this analysis there appears to be no connection between delay and the mandatory conditions of federal agencies. In fact, both the FERC 603 Report and the Department of the Interior’s study last May found that there is no statistical difference between the time it takes to license projects with or without Section 4(e) and Section 18 prescriptions.¹⁵ Of the 51 projects that are the subject of this report, only 11 involved fishway prescriptions under Section 18 and 13 involved land management prescriptions under Section 4(e).

In limited instances where federal mandatory conditions are associated with delay, problems are often due to jurisdictional disputes. FERC’s regulations require agencies to submit mandatory conditions prior to development of the Commission’s NEPA document and sometimes prior to the applicant providing complete information. The Commission has allowed agencies to submit draft conditions with a schedule for completion but because these agencies must support their conditions with evidence, they must wait to issue their final conditions before all of the applicant’s studies are complete. Because they are able to fall back on annual licenses, some applicants will delay completion of those studies.

Finally, some agencies have been slow or inconsistent in their administration of their authorities. This was a significant focus of an Interagency Task Force (ITF), which developed a series of administrative solutions to ensure consistency and timeliness. These agencies also have sought budget increases to add staff to cover an ever-increasing workload.

¹³ For example, these issues have come before the Senate in 10/1997, 9/1998, 5/2000, and 6/2001, and before the House in 3/2000 and 6/2001. The Interagency Task Force on Hydroelectric Relicensing was chartered by FERC, DOI, DOC, and DOA in 1999.

¹⁴ See testimony on behalf of the National Hydropower Association before the Senate 10/1997, 9/1998, 5/2000, and 6/2001. Floor statement by Senator Larry Craig (R-ID) CR S328, January 22, 2001.

¹⁵ Federal Energy Regulatory Commission, “Report on Hydroelectric Licensing Policies, Procedures, and Regulations.” May 2001 and Department of the Interior, Comments to FERC on Docket No. PL01-1-000, Hydroelectric Licensing Policies, Procedures, and Regulations, by William Bettenburg, April 16, 2001.

D. Settlements

Virtually everyone, including the Commission, favors settlement where it is possible. Settlement can result in an outcome that is favorable to everyone and can avoid lengthy court battles and even longer delays in implementation of environmental conditions or project upgrades. It is odd to suggest that settlement agreements are associated with delays but based upon the findings of this report, there appears to be a correlation between delays and settlement. Settlements are related to delays in hydropower licensing in three specific but different ways: 1) reaching settlement takes time and effort; 2) evaluating settlements is sometimes hard for FERC; 3) settlements often involve controversial projects where parties have exhausted other avenues.

Establishing a process and reaching settlement is extremely challenging but yields significant rewards when it works. Simply getting to a point at which parties have established trust and are ready to come to the table takes time. Then parties must establish ground rules, protocols, and logistical considerations. Once these elements are in place, coming to resolution on complex and controversial issues can take time. The beneficial result is an agreement – often binding – that everyone can live with.

Table 2: Settlements

Project #	Project Name	State	Capacity (MW)	Date Settlement Agreement Filed	Time Elapsed Since Settlement Filed (years)
10461	Parishville	NY	2.4	9/11/01	0.25
10462	Allens Falls	NY	4.4	9/11/01	0.25
1927	North Umpqua	OR	185.5	6/21/01	0.47
1982	Holcombe	WI	34	1/17/01	0.9
2069	Childs Irving	AZ	7	9/15/00	1.24
1864	Bond Falls	MI	12	7/7/00	1.43
2318	E J West	NY	20	4/11/00	1.67
2482	Hudson	NY	72.8	12/1/99	2.03
2554	Feeder Dam	NY	6	12/1/99	2.03
2342	Condit	WA	9.6	9/22/99	2.22
2320	Middle Raquette	NY	46	4/22/98	3.64
2330	Lower Raquette	NY	11.5	4/22/98	3.64

Once a settlement is reached, parties must submit the agreement to FERC for approval. Of the projects in our sample, 12 have filed settlement agreements with FERC but have been waiting up to 3.6 years to be processed (see Table 2). This is an unacceptable duration of delay even given the processing requirements involved. FERC

staff have sometimes complained about an inability to translate a settlement agreement into terms that it is accustomed to. Other times they claim that terms of settlements fall outside of their jurisdiction and are therefore unenforceable. Because of their rules limiting communication with outside parties, FERC staff are limited in the advice that they can provide settling parties to avoid such inconsistencies. Because FERC is an independent Commission, staff cannot know how the Commissioners will view an issue without prior precedent. This also limits their ability to provide counsel in these matters.

Finally, perhaps the most significant reason that delays are associated with settlement agreements is that settlement often represents the last resort for parties who have exhausted other avenues or who have been directed by the courts to reach settlement. This appears to be the case in at least 14 of the 51 projects in our sample. For most of our projects in the state of New York, settlement was the outcome of litigation over state Clean Water Act certification. After escalating litigation, the courts finally directed the parties to resolve their differences on these cases. An administrative law judge was appointed to oversee these settlements and the parties agreed to a manageable schedule approaching the projects sequentially. This process is nearly complete with only two projects still without settlements.

E. Unconstructed Projects

Seven of the projects listed on FERC's list of the 51 oldest pending license applications are applications for unconstructed hydropower projects. In today's world, there are two primary reasons why very few new hydropower dams are being constructed. First, all of the best technically and economically feasible sites for hydropower dams have already been exploited. Anything left undeveloped is marginal from either an economic or technical standpoint. Second, we have a better understanding today of the impacts of dams on rivers than we did 50 to 100 years ago during the height of the dam building era. Combined with today's societal values placed on environmental quality, the environmental downside to exploiting any remaining undeveloped sites is simply too large.

As a result, it comes as no surprise that some of these applications for new dams have taken longer than expected. Because they are marginal economically and involve significant environmental harms, it is difficult for these projects to meet FERC's public interest standard or those of the Forest Service in the case of those applications to build projects on national forest lands. The necessary environmental protection or mitigation is likely to tilt the economics even further against development. In these cases, we find that applicants repeatedly amend their applications to FERC in order to make their proposals appear more viable. In fact, according to FERC 4 of the 7 applications for unconstructed projects included on FERC's list amended their license application at least once. In fact, of all of the projects in our sample, 17 sought amendments to their original application.

F. Dam Removal

The concept of dam removal as a river restoration tool has grown in acceptance over the last decade to the point where it is now being implemented in all regions of the country.¹⁶ Communities are deciding that the costs (including safety and environmental damage) of some dams outweigh their benefits and that removal is the cheapest and most beneficial alternative. Few of the dams removed to date generated electricity, but the efficacy of this approach has spread to FERC hydropower licensing.

Our analysis indicates that FERC's handling of this now mainstream tool is clouded by past controversy and is without consistent policies or procedures. These inefficiencies have led to a variety of delays in some licensing proceedings. Of the 45 projects with existing dams in this analysis dam removal is an issue in 7 cases.

Historically, FERC was an agency responsible for encouraging the development of hydropower projects. When the dam-building era came to an end—primarily because all of the technically and economically feasible sites had already been dammed—the Commission's focus shifted to the regulation of existing dams. Many of those dams are now more than 100 years old and in desperate need of repair or removal. As we have entered an era marked by an increase in ecological restoration, FERC appears to have retained some institutional mechanisms and biases toward dams and power generation that make consideration of dam removal difficult.

Dam removal continues to be a political issue that often divides the Commission.¹⁷ As a result, consideration of dam removal often becomes a political debate rather than a structured deliberation of costs and benefits. Even staff decisions and recommendations appear to be influenced by the political nature of the issue. This added layer of complexity can lead to delay in licensing processes where dam removal is discussed seriously.

While the Commission has a 1994 policy on dam removal,¹⁸ there remains significant uncertainty about the procedures for implementing dam removal, even in the case of a settlement agreement. Questions around competition, continuing operations, jurisdiction, disposal of lands and waters, and associated regulatory requirements are all new territory for FERC and complicate and delay some proceedings.

The Condit Hydroelectric Project on the White Salmon River in Washington State provides an example of this problem. In September of 1999, a voluntary agreement among PacifiCorp (licensee), the Columbia River Inter-Tribal Fisheries Commission, the Yakama Nation, several environmental and fishing groups, and state and federal

¹⁶ Over the past 100 years more than 460 dams have been removed from rivers in the United States with the majority of those removals taking place in the 1980s and 90s. American Rivers, "Dam Removal Success Stories," December 1999

¹⁷ FERC.1997. Edwards Mfg. Co. 81 F.E.R.C. ¶61,225.

¹⁸ FERC. 1995. Project Decommissioning at Relicensing: Policy Statement. 60 Fed. Reg. 339 (codified at 18 C.F.R. §2.24)

agencies was reached to remove Condit Dam. This project found its way onto FERC's list of the 51 oldest pending license applications because the Commission has not yet acted on the settlement agreement, which is now more than 2 years old. In May of 2001, FERC held a meeting on this case in which it indicated that it was not clear whether it had the authority to approve the agreement.¹⁹ Due to the procedural uncertainty at the Commission, and its subsequent delay in approving the agreement, there is a risk that the agreement could fall apart in September 2002 when an "off ramp" in the agreement is triggered.

FERC's regulations and decommissioning policy say little about the question of funding for project retirement and dam removal. If and when dam removal is considered during the licensing process, the question of who will pay for the removal is often a source of considerable debate and delay. Some stakeholders believe that the licensee who has been benefiting from the use of a public resource should be required to pay for removal of their dam(s). Others believe that FERC should create and manage a dam removal fund that all licensees must pay into as insurance to cover the costs of those dams that are removed.

FERC's 1994 policy turned down the idea of a pooled fund and left open the possibility of individual project funds but only in cases where there may be reason to require one. FERC's approach to date has relied on the logic that if a dam owner has significant resources, there is no need to require that they set aside money for dam removal and if they don't have resources, then the owner cannot be burdened by having to set aside money for dam removal. In a few instances, settlement agreements have included funding mechanisms to plan for eventual dam removal.²⁰

G. Other Issues

1. Endangered Species

The Endangered Species Act (ESA) requires all federal agencies, including FERC, to "insure that any action authorized, funded or carried out by such agency ... is not likely to jeopardize the continued existence of any endangered species or threatened species."²¹ To assist agencies in complying with this mandate, the ESA requires formal consultation between an "action" agency and the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) whenever the action agency determines that its action "may affect" a species listed as threatened or endangered.²²

There is, however, no clear understanding of how FERC is to undertake this consultation and the most efficient stage in the process for doing so. In many instances, it does not occur until late in the licensing process, potentially resulting in delays. At times,

¹⁹ The same holds true for the Childs-Irving Project, AZ (p-2069)

²⁰ For example Deerfield River Hydroelectric Project Settlement October 5, 1994: Project No. 2323; Wilderness Shores Settlement Agreement, July 29, 1996, Project Nos. 1759, 2074, 2072, 2073, 2131, 1980

²¹ 16 U.S.C. § 1536(a)(2).

²² Id.; 50 C.F.R. § 402.14(a).

the Commission or a license applicant will prepare a biological assessment as a basis for initiating consultation, while at other times FERC relies upon its NEPA document – toward the end of the licensing process. FERC should develop the essential information related to listed species and request the initiation of formal consultation at the earliest opportunity provided by the regulations.

The consultation process can be further complicated when a new species is listed and associated habitat designated or a species not believed to be in the project area is discovered late in the process. Either situation necessitates additional studies and other data collection late in the process. While it may slow the process, it is imperative that FERC take the necessary steps to ensure that endangered and threatened species receive the necessary protection.

Finally, agency staff responsibilities can also affect the timeliness of licensing. In some agencies such as the Fish and Wildlife Service, those persons who are responsible for hydropower licensing are different from those responsible for endangered species consultation. This can result in redundancy and inefficiency.

2. Tribal Consultation

Tribal concerns are often associated with delays in hydropower licensing cases. While some hydropower projects are located directly on reservation lands, many more impact those lands or affect other natural or cultural resources of tribal concern. While the Department of the Interior is the principle agency responsible for tribal issues, all agencies of the federal government have a trust responsibility to Indian Tribes, including the Commission.²³ Section 106 of the National Historic Preservation Act²⁴ and Section 4(e) of the FPA require FERC and license applicants to consult with tribes about cultural and other tribal resources. Our analysis showed that 5 projects involved some level of tribal consultation.

Tribal consultation is complicated by a number of different factors. Cultural resources are often viewed by tribes as sacred and/or secret making analysis and discussion difficult. These and other communications barriers make consultation challenging and can cause delays if not addressed early enough. Most tribes view discussions with federal agencies as government to government interactions, while FERC does not often approach it that way.

Some tribal treaties are not well understood and the extent of their reach is often ignored. Disputes can also creep into hydropower licensing discussions that are not directly related to the hydropower operations but are none-the-less significant concerns of the tribe. In particular, old land disputes dating back to the original construction of the project sometimes arise in relicensing.

²³ *Covelo Indian Community v. FERC*, 895 F.2d 581 (9th Cir. 1990).

²⁴ 16 U.S.C. §§ 470-470w-6.

H. Summary

It is very difficult to identify clear, broadly applicable causes for delays in issuing licenses for hydropower dams. Hydropower licensing proceedings are inherently complex and delays are inevitable. Based upon this sample of 51 projects, delays are *associated* with issues ranging from dam decommissioning to water quality certification but these should not be mistaken for *causes*. However, when one looks at some of the common elements of these issues, a clearer picture of cause emerges. Incomplete or amended applications and later disputes over information needs, a basic lack of cooperation among agencies, and inconsistent agency guidance are each examples of these elements.

Industry itself has acknowledged that for the projects whose licenses expired in 1993, more than 90% required additional information.²⁵ The subsequent need to conduct these studies to complete their applications was a significant reason that there were major delays in these relicensings. A similar condition seems to have contributed here.

Failure among FERC and agencies to jointly develop environmental reviews, request and supply studies or information, or communicate plans or schedules, seems to point to a breakdown in trust and cooperation. These inefficiencies are undoubtedly responsible for some delays.

Conflicting or absent guidance and policies on issues such as dam removal, endangered species consultation, water quality certification, and NEPA analysis are all signals that agencies need to be more consistent and address some of these issues together. Agencies also need to respect the respective authorities and expertise of each agency as established by Congress and confirmed by the Courts.

On top of it all, the unquestioned and wanton issuance of annual license extensions exacerbates each of these causes and allows parties to lose discipline and focus. For some licensees, annual licenses appear to serve as an incentive for withholding information and fostering delay.

²⁵Barnes, *FERC's "Class of '93": A Status Report*, Hydro Review (Oct., 1995).

III. SOLUTIONS

The licensing process for hydropower dams has improved considerably over the past several years thanks to administrative reforms and stakeholder education efforts by FERC, improved procedures, increased resource allocation by agencies, and a greater understanding on the part of the public. However, problems with delays, conflicts, and inefficiencies persist, calling for further refinement of the process. Based upon our analysis, the authors offer the following recommendations in an effort to improve and refine the hydroelectric licensing process. This is neither an exhaustive nor detailed list but it does identify the need to solve problems of information disputes, agency coordination and cooperation, and clarified procedures. Perhaps most importantly, the authors urge Congress to place limits and conditions on the issuance of annual license extensions. Delays in the licensing process will continue unless we remove what is effectively an incentive to avoid coming to resolution of the issues.

Primary Recommendations

1. Strictly Limit And Condition The Issuance Of Annual Licenses.

As discussed above, the availability of annual licenses creates a perverse incentive for delay. License applicants who delay relicensing by submitting incomplete applications or refusing to conduct necessary studies are rewarded by the issuance of annual licenses, for as long as the dispute over the adequacy of the application or supporting studies continues. Congress should amend the Federal Power Act as necessary to remove this incentive. It should limit the number of years a project may operate under annual licenses and confirm that operations under annual licenses must comply with any interim conditions that may be set by environmental agencies that have the power to impose conditions on relicensing. It should also mandate that FERC strictly limit and condition its issuance of annual licenses. In the meantime, FERC should also make more effective use of the authority specified in its existing regulations to include in annual licenses additional or revised interim conditions to address adverse impacts on the environment.¹ While interim conditions may not be appropriate in all cases, removing this perverse incentive is crucial in limiting delays.

2. Ensure Timely And Complete Studies and Applications.

Perhaps the single most important way to reduce delays in hydropower licensing is to require applicants to complete in a timely manner all studies requested by FERC or state water quality agencies, or federal environmental agencies with mandatory conditioning authority. Congress should codify the authority of those agencies to require applicants to prepare studies necessary for their respective decision-making. Alternatively, Congress should direct FERC to require applicants to abide by such requests. Congress should also grant FERC the ability to impose penalties on licensees who fail to complete requested studies in a timely manner. Finally, environmental agencies should establish rules that impose time limits and standards for requesting

¹ 18 C.F.R., section 16.18.

information, limit study requests to issues related to relevant statutory and regulatory responsibilities, and offer an internal appeal to the regional director.

3. Establish A Joint Schedule For Relicensing.

A comprehensive licensing schedule, prepared in consultation with all the stakeholders, would serve several purposes. First, a comprehensive schedule would enable parties to more effectively budget the necessary resources in advance. Second, a schedule would provide FERC with a tool for managing the various steps in the licensing process and for seeking to bring the proceedings to a timely conclusion. At a minimum, FERC should establish a timeline with targets for processing the application, publishing the draft and final environmental review documents, and for processing administrative appeals.

4. Involve FERC Staff Early In The Licensing Process.

The current FERC regulations require an early commitment of staff resources by state and federal environmental agencies, but not by FERC. FERC staff should participate in the consultation stages early in the licensing process. This effort will facilitate a more efficient process by providing better guidance throughout.

5. Require FERC To Issue Staff Draft License Articles For Public Comment

Under the existing process, parties to a relicensing do not have an opportunity to see or comment on any license requirements – draft or final – until the final license is issued. While FERC’s NEPA documents sometimes allude to potential license articles and conditions, there is no formal opportunity for public input on the specific terms of hydropower license or even an ability to see what staff is thinking. This lack of transparency and uncertainty does not help anyone and puts off difficult decisions until far too late in the process. Congress should direct FERC to issue staff draft license articles for public comment at the same time that they publish the draft environmental review document. While the Commission retains authority to make the final licensing action, an indication of staff’s preliminary recommendations will allow parties to participate more efficiently and effectively.

6. Require More Flexible Conditions, Including “Adaptive Management” And “Reopener” Provisions.

The terms of licenses are too long - 30 to 50 years. Because licenses currently last for a generation, the stakes in relicensing for resource protection and operational criteria are extremely high. While reducing the terms of hydropower licenses may not be possible in the current political climate, resource managers must have greater flexibility to reopen licenses to address issues such as changes in water quality standards or listing of new endangered species. To do this, FERC should incorporate adaptive management requirements and honor agency requests to reopen licenses. Such a practice would serve to reduce the time and cost of licensing because there would be an ongoing opportunity to

study and make changes as necessary subsequent to issuance of the license. Pressure to “get it all right” at the time of licensing would be significantly reduced.

7. Establish Agency Procedures And Deadlines For Submitting Draft and Final Licensing Conditions And Stick To Them.

Federal environmental agencies, particularly those with mandatory conditioning authority, recently established procedures and deadlines for submitting draft and final licensing conditions to the Commission for consideration in FERC’s NEPA document and ultimately for inclusion in the final license order.² These timelines appear to work in concert with the NEPA process and enable parties to offer comments on drafts, including alternative proposals. These procedures should be codified in either rule or statute.

B. Additional Recommendations

1. Expect Cooperative Development of Environmental Documents.

FERC should allow and encourage federal and state environmental agencies to cooperate in the development of joint NEPA documents, with FERC as the lead agency. To accomplish this, FERC must allow cooperating agencies to intervene in the proceeding at available opportunities. This may require a clarification of FERC’s rules governing *ex parte* communications.³ If FERC is unwilling to change this policy, Congress should direct them to do so. The benefits of including these agencies in the development of environmental review documents far outweighs any competitive advantage that they might derive from being privy to discussions with FERC staff in the development of NEPA documents. In fact, such a concern could be eliminated if those communications take place on the record.

State environmental agencies have the added problem of being unable to issue their water quality certifications without a supporting environmental review, while FERC’s rules seek certification prior to environmental review. FERC should amend its regulations to establish a timeframe for filing water quality certification applications that coincides with completion of FERC’s environmental review. Congress should require this if FERC fails to act. Preferably, FERC and the state should jointly develop draft and final environmental documents to ensure that the needs of both agencies are met. A Memorandum of Understanding between FERC and the state agencies would better facilitate this sort of cooperation.

² Review Process for Mandatory Conditions Developed by the Departments of the Interior and Commerce in the Context of Hydropower Licensing, Federal Register Vol. 65, No. 240, pg. 77889, December 13, 2000

³ FERC, Regulations Governing Off-the-Record Communications, 18 CFR Part 385, Docket No. RM98-1-000, Order No. 607, September 15, 1999

2. Consolidate Licenses On A Watershed Basis.

The Commission should continue to coordinate the expiration of different licenses within the same watershed – including those where there are different project owners – even if that means delaying the issuance of one or more licenses. The benefits of coordinated decisions often outweigh minor delays in environmental upgrades.

3. Continue To Encourage Collaboration And Settlement.

FERC has been working with stakeholders over the past five years to improve the relicensing process. The result is an alternative “collaborative” licensing process that provides faster, more certain, and less expensive resolution of relicensing if the dam owner is willing to engage in a more open and cooperative review of the dam’s operations and impacts. FERC has codified this alternative process and has a goal of having at least 50% of all relicensings within the collaborative process. The findings in FERC’s own 603 Report indicate that collaboratives are highly effective at reducing the time to issue a license.

To the credit of all involved in the process of hydropower licensing, increasing numbers of these proceedings are ending in ‘win-win’ settlement agreements that better enable parties to protect the environment while granting power companies some greater flexibility and opportunities to reduce costs. Unfortunately, FERC has recently taken the position that it cannot or will not enforce all terms and conditions of settlement agreements. Congress should direct FERC to enforce all settlement terms related to agency mandatory conditions.

4. Provide Necessary Funding For Agency Participation.

To ensure that the relicensing process is efficiently implemented, state and federal environmental agencies must have sufficient staff, resources and training to enable productive involvement in individual relicensings. At present, many of the relevant state and federal agencies do not have sufficient staff dedicated to relicensing. As a result, a range of individuals (few of whom are trained in the relicensing process) may participate in different parts of a relicensing proceeding as time allows, or the appropriate staff is overburdened and cannot spend the time to conduct an adequate review of the environmental needs at the site or participate constructively in the relicensing. Because of the complex nature of the proceedings, and because of the new, more productive trend toward collaborative relicensing efforts, a consistent presence of qualified staff with an appropriate workload would make agency efforts more efficient and productive.

Section 1701(a) of the Energy Policy Act of 1992 provides authority for FERC to reimburse environmental agencies for their costs associated with licensing FERC projects. The provision calls for FERC to pass these costs on to licensees through annual fees. The reimbursement to federal and state environmental agencies, however, is subject to annual appropriations from Congress. Since 1992, FERC has been collecting fees from licensees for some of the federal environmental agency relicensing expenses but this

money has not found its way back to these agencies. To facilitate more efficient relicensings, this provision should be implemented and state and federal environmental agencies reimbursed.

“...not one cent of the collected fees ever reaches the State to pay for its cost of processing facility relicensing.” - Secretary of Natural Resources for the State of Wisconsin in a letter to Senator Russell Feingold

5. FERC And Agencies Should Revise Practices Under The ESA

FERC, USFWS, and NMFS need to adopt clear policy guidelines which commit to early and effective consultation on endangered species. Informal ESA consultations should be initiated in the pre-filing consultation period and formal consultation should be completed prior to issuance of a FERC license.

6. Increase Cooperation Among FERC And Environmental Agencies

Cooperation among FERC and state and federal environmental agencies will greatly improve the efficiency of the relicensing process. At present, agencies are often at odds with each other and do not share information or expertise, often resorting to turf battles regarding who has legal authority. In 1999, FERC and the federal agencies began meeting to discuss ways to better meld their respective authorities. Under a charter signed last October, the four principle federal agencies involved in relicensing – FERC, Interior, Agriculture, and Commerce – formed an Interagency Task Force to Improve Hydroelectric Licensing Processes (ITF). They developed a number of work products designed to improve the process that constitute significant progress.

Although some effort was made to include the states, there is much to be done in this area of interagency cooperation. FERC should enter in to discussions and develop MOUs with state agencies to better manage their communications and respective authorities. Protocols can be developed to ensure that information is provided and exchanged in a timely manner, so that state standards can be clearly understood early in the process, and so that timing and deadlines can be melded in a way that respects each agency's authorities. Congressional guidance may be useful in moving forward such a proposal.

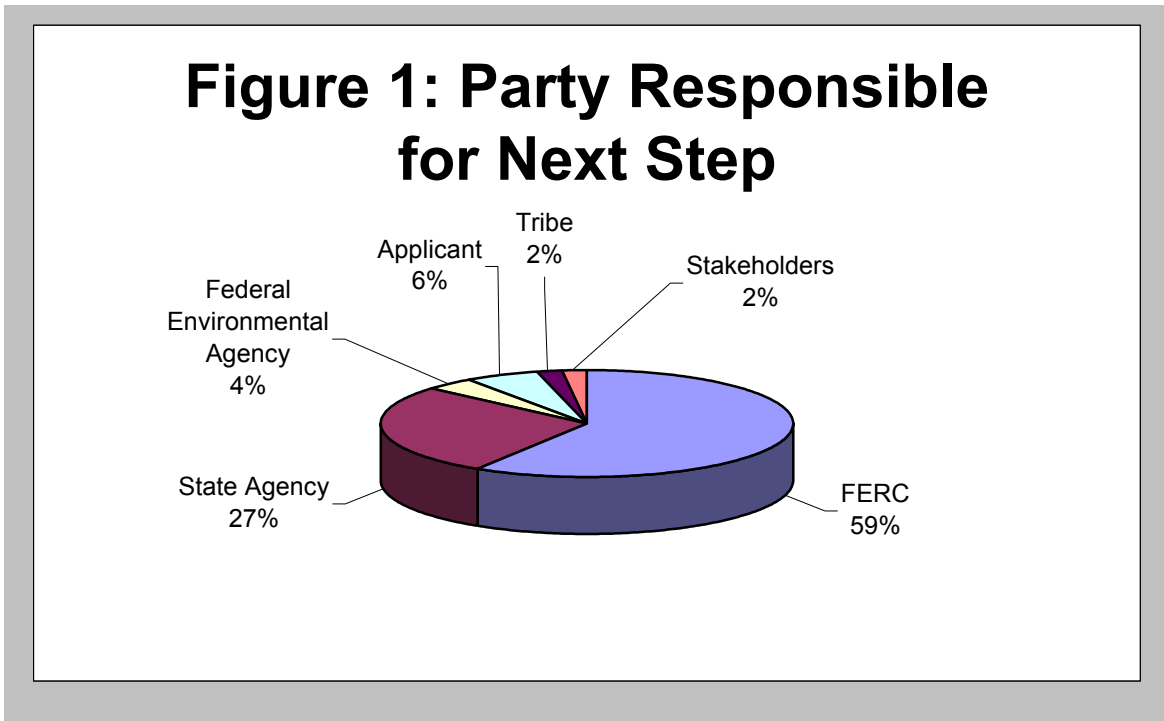
7. Respect Tribal Sovereignty

All federal agencies have responsibilities to uphold tribal trust responsibilities and protect treaty obligations. This includes FERC. The Commission should take an active role in ensuring that tribes are contacted early in licensing proceedings, have the resources to participate, and that sensitivities are addressed and respected. This is even more important in cases where there are old, long-standing disputes. The Commission should identify resource issues of greatest concern to tribes and address these early in the process. Finally, the Commission should see that fees for the use of tribal lands are negotiated early in the process and not left until after a license has been issued.

C. Conclusion

The Hydropower Reform Coalition supports efforts moving forward to resolve these 51 licensing cases once and for all. As noted in Figure 1 below, FERC is the party primarily responsible for taking the next step on the majority of these cases. We applaud FERC and its new Chairman for beginning to take action on these cases and hope that they and others will follow through on reaching resolution in these cases so that we can get on with the business of restoring and protecting these natural resources.

However, in light of this report, its findings, and its recommendations, we call on Congress to take an active role in reforming the hydroelectric licensing process that enables well considered and deliberated decisions that protect the environment and enrich riverfront communities for decades to come.



HYDROPOWER REFORM COALITION

Formed in 1992, the Hydropower Reform Coalition is a consortium of more than 80 local, statewide, regional, and national conservation and recreation organizations working to restore and protect rivers through improved operations of hydropower dams.

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