Focus on Integrated Water Solutions

Maintain water power license fees
Welcoming Remarks

Heather Bartlett, Manager
Water Quality Program
Department of Ecology
Goal of Today’s Meeting:

Provide Interested Stakeholders with information on Agency Request Legislation that Ecology and WDFW are proposing to the Governor's Office for the 2015 Legislative Session.

This legislation would remove the sunset date for FERC fees to ensure funds are available to help Ecology and WDFW respond to the needs of hydropower operators in implementing:

- 401 certification conditions of the FERC license
- Settlement agreements
- Water Quality compliance schedules
<table>
<thead>
<tr>
<th>Time</th>
<th>Agenda Item</th>
<th>Presenter</th>
</tr>
</thead>
<tbody>
<tr>
<td>10:00 a.m.</td>
<td>Introduction</td>
<td>Heather Bartlett, Water Quality Program Manager, Ecology</td>
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<tr>
<td>10:15 a.m.</td>
<td>Overview of 2011-13 Biennial Report to the Legislature</td>
<td>Chad Brown, Water Quality Program Program, Ecology</td>
</tr>
<tr>
<td>10:45 a.m.</td>
<td>Work that needs to be done for FERC hydro licenses</td>
<td>Justin Allegro, Habitat Division, WDFW</td>
</tr>
<tr>
<td>11:05 a.m.</td>
<td>Legislation being requested by Ecology and WDFW</td>
<td>Don Seeberger, Water Quality Program Program, Ecology</td>
</tr>
<tr>
<td>11:25 a.m.</td>
<td>Discussion with Stakeholders on legislation</td>
<td>Susan Braley, Water Quality Program Program, Ecology</td>
</tr>
<tr>
<td>11:55 a.m.</td>
<td>Meeting Adjourned</td>
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</table>
Overview of 2011-13 Biennial Report to the Legislature

Chad Brown
Water Quality Program, Ecology
What I am going to cover

- Purpose and elements of the Water Power License Fee Legislative Report
- Summary of fees and expenditure current and previous biennia
- Summary of state agency staffing for hydropower projects
- Examples of previous recommendations we received from licensees and interest groups
Water power License fee report

Biennial Report to the State legislature on the expenditure of fees collected under:

Chapter 90.16 RCW - APPROPRIATION OF WATER FOR PUBLIC AND INDUSTRIAL PURPOSES

Section 050 - Use of water for power development, Annual license fee, Progress report -- Exceptions to the fee schedule.

Required elements of the progress report:
1. State agency expenditures of FERC project fees in previous biennium and expected expenditures in next biennium
2. Recommendation from Ecology, WDFW, FERC licensees, and other interested parties
3. Recognition of hydropower operators that exceed environmental regulatory requirements
Summary of Fees Collected (FERC project fee only):

2007-2009 Biennium – $935,600
2009-2011 Biennium – $1,019,900
2011-2013 Biennium – $1,016,000
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97 projects are assessed fees mandated by RCW 90.16.050

75 of these projects hold FERC licenses & pay FERC-based fees
  • Fees per project range from approximately $60 to $68,000 depending on the theoretical horsepower
  • Average fee per hydropower project is $6,800
Water power License fee report

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-- Non-FERC fees are roughly half the totals above and are used to partially fund USGS/Ecology stream gauging stations.
-- Detailed table of FERC and non-FERC fees by project and payee is included in the biennial report.
Disposition of Fees

RCW 90.16.090 - (1) All fees paid under provisions of this chapter, shall be credited by the state treasurer to the **reclamation revolving account** created in RCW 89.16.020

**How funds are allocated:**

- The fees in the reclamation account fund work by staff in the Water Quality Program and the Water Resources program.
- Ecology WQ Program and WDFW have a contract that is renewed each biennium to perform assist in development and compliance of conditions of the WQ certification, settlement agreements and other habitat-related FERC license articles.
# Expenditures

## Table 1. FERC Project Expenditures by Agency, Program, Fiscal Year, and Fund Source

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<tr>
<th>Fiscal Year</th>
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<tr>
<th>State Agency/Program</th>
<th>Project Involvement</th>
<th>FTEs funded by hydro Fees</th>
<th>FTEs funded by other sources</th>
<th>Total FTE for FERC Projects</th>
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</thead>
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<tr>
<td>Ecology - Water Resources Water Resources Program</td>
<td>Technical assistance on instream flow issues for all projects statewide</td>
<td>0.7</td>
<td>0.3</td>
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<tr>
<td>Ecology - Water Quality Headquarters Office</td>
<td>Technical assistance to WQ regions on all projects statewide</td>
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<td>1.0</td>
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<tr>
<td>Ecology - Water Quality WQP - Central Region Office</td>
<td>401 WQ certification coordination for projects in Ecology’s central region.</td>
<td>-</td>
<td>1.0</td>
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<tr>
<td>Ecology - Water Quality WQP - Eastern Regional Office</td>
<td>FERC 401 coordination for projects in Ecology’s eastern region.</td>
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<td>0.2</td>
<td>1.0</td>
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<tr>
<td>Ecology - Water Quality WQP - Southwest Region Office</td>
<td>401 WQ certification coordination for projects in Ecology’s Northwest region.</td>
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<tr>
<td>Ecology - Water Quality WQP - Northwest Region Office</td>
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<td>0.5</td>
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<tr>
<td>Ecology - Program A</td>
<td>Senior management resources</td>
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<td>0.9</td>
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<tr>
<td>WDFW – Habitat Program Energy Projects</td>
<td>Technical assistance on fish and wildlife issues for all projects statewide.</td>
<td>2.1</td>
<td>2.4</td>
<td>4.5</td>
</tr>
<tr>
<td>Washington State Attorney General’s Office</td>
<td>Legal assistance with FERC Licensing, 401 WQ certifications, amendments, and settlement agreements.</td>
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<td>0.4</td>
<td>0.4</td>
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<tr>
<td><strong>Total State Agency FTEs</strong></td>
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<td><strong>6.2</strong></td>
<td><strong>4.6</strong></td>
<td><strong>10.8</strong></td>
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Water power License fee report

Some recommendations received in previous reports:

- Provide more detailed information about license fees, including fees collected by each utility;
- Provide a summary of work that has been performed to issue 401 WQ Certifications, Settlement agreements and review of license implementation;
- Review the current and future workload and determine the funding necessary to fully fund the state FERC programs through the water power license fees or other resources;
- Allocate funding to review preliminary permit applications that have increased in number in recent years;
Further recommendations received in previous reports:

- Develop incentives that encourage environmentally responsible development of hydropower projects;
- Minimize turnover of staff assigned to projects and maintain technical expertise to implement conditions that have been set in the licenses.
- Provide funding to develop future site-specific water quality standards or use attainability analyses necessary to meet requirements with dam compliance schedules.
Questions?
Work that needs to be done for FERC hydro licenses

Justin Allegro
Habitat Division, WDFW
Water Power License Fees

- Fees allocated and expended by the director of ecology for “expenses associated with staff at the departments of ecology and fish and wildlife working on federal energy regulatory commission relicensing and license implementation.”

- Respond to the need of hydropower operators to implement conditions, settlement agreements, water quality compliance schedules, and other requirements of the water quality permits (401 certifications) and the terms of their FERC license articles.
  
  o Maintain consistent agency staff engagement and knowledge coordination;

  o Ensure coordination and consistency in technical support to hydro operators between each state agency’s regional and headquarters staff, as well as the technical experts in different agency programs;

  o Support priority implementation needs and compliance schedules for environmental conditions at recently relicensed facilities and projects with off-license settlement agreements; and

  o Review application documents and get early participation by state agencies in newly proposed hydropower projects
Support priority implementation needs at recently relicensed facilities and projects with off-license settlement agreements

- Develop, implement, and adaptively manage new and existing water quality certifications, including providing appropriate technical fish and instream habitat expertise;

- Review and approve certification conditions and license articles;

- Implement dam compliance schedules to meet water quality standards;

- Review, approve, and monitor progress of instream flow and habitat improvements required in the licenses;

- Develop site-specific water quality standards or other analyses necessary to meet dam compliance schedules for compliance with water quality standards; and

- Participate in the design and/or implementation of environmental protection, mitigation, and enhancement measures for fish, wildlife and habitat—as well as wildlife-oriented recreation—with particular focus on management requirements for state and federally listed species and state priority habitat and species, such as salmonids, bull trout, sturgeon, lamprey, and resident fish.
Sullivan Lake Cold Water Pipe Project: Pump cold water to Sullivan Creek to improve habitat for native fish (PUD and SCL)

LWM placement in Middle Br. LeClerc for pool formation
Engineer Log Jam on Sullivan Creek (SCL) provide cold water refuge for salmonids

LWD being placed in North Fork Calispel Creek
Lake Chelan Hydroelectric Project
• Attend regular meetings with the Lake Chelan Fish Forum and Lake Chelan Wildlife Forum
• Provide input to the Lake Chelan Fishery Forum Annual Work Plan
• Provide technical assistance regarding the implementation of the Comprehensive Plan and Settlement Agreement

Lake Chelan Wildlife Mitigation Site

Participate in the Winter Wildlife Surveys
Lake Chelan Hydroelectric Project

- Attend regular meetings with the Chelan River Fish Forum
- Provide technical assistance to PUD on the Chelan River Water Temperature Modeling Quality Assurance Project Plan
- Provide technical assistance to PUD and others regarding Tributary Barrier Maintenance and Removal
Tacoma Power: Cowlitz Hydropower

• Fish Technical Committee participation
• Technical assistance and permitting for implementation of SA objectives for Interim Downstream Passage at Cowlitz Falls (weir box and Upstream Riffe Lake collector) and North Shore Collector

Tacoma Power: Cushman Hydropower

• Fisheries and Habitat Committee participation
• Assistance in design and review of Downstream Collector and Upstream Adult Fish Collector
• Assisted in developing objectives for modification of fish passage at Little Falls on North Fork Skokomish River (state and federal policies for fish passage, recovery, fishery co-management
Mid Columbia Hydroelectric Projects

- Ecology and WDFW attend regular meetings of the Priest Rapids Fish Forum (PRFF), Rocky Reach Fish Forum (RRFF), and Aquatic Settlement Work Group Meetings (ASWG).

- Attend Priest Rapids, Rocky Reach, and Douglas PUD Wildlife Forum meetings as needed.

- Provide technical assistance on lamprey passage for Grant PUD, Chelan PUD, and Douglas PUD.

- Provide technical assistance on the implementation of bull trout, white sturgeon, resident fish, pacific lamprey, water quality, and aquatic invasive species management plans.

- Provide technical assistance on the development and implementation of the shoreline management plans for Grant PUD, Chelan PUD, and Douglas PUD.

- Review of annual reports on wildlife, water quality, resident fish, bull trout, pacific lamprey, white sturgeon, aquatic invasive species for Grant PUD, Chelan PUD, and Douglas PUD.
Questions?
Legislation being requested by Ecology and WDFW

Don Seeberger
Water Quality Program, Ecology
Maintain water power license fees

The problem

Water power license fees required for Federal Energy Regulatory Commission (FERC) licensed water power projects (Revised Code of Washington, 90.16.050) under SSEB 5881 of 2007 will expire June 30, 2017. Fees enable Washington State agencies to help the hydropower industry meet federal licensing requirements that protect water quality. They also protect, mitigate, and enhance fish, wildlife, and habitat.

The state assesses fees to FERC-licensed public and private dams in Washington State to use state waters for power generation. In the last biennium, fees were assessed to 93 projects. The fees are based on the potential power production from the water passing each dam.

The solution

We propose to eliminate the sunset date of the fees to ensure funds are available to help the Department of Ecology and Department of Fish & Wildlife (WDFW) staff respond to the needs of hydropower operators to implement conditions, settlement agreements, water quality compliance schedules, and other requirements of the water quality permits (known as “401 certifications”) and the terms of their license articles.

The state's proposal

Maintain the necessary resources to allow Ecology and WDFW to be more responsive to the hydropower industry and to ensure that the state is taking needed steps to protect state waters’ designated uses, such as protecting, mitigating, and enhancing fish, wildlife, and habitat.

Agency request legislation

October 2014

This funding will pay for state assistance to:

- Support priority implementation needs and compliance schedules for environmental conditions at recently relicensed facilities and projects with off-license settlement agreements;
- Develop, implement, and adaptively manage new and existing water quality certifications, providing appropriate technical fish and in-stream habitat expertise;
- Review and approve certification conditions and license articles;
- Implement dam compliance schedules to meet water quality standards;
- Review, approve, and monitor progress of instream flow and habitat improvements required in the licenses;
- Develop site-specific water quality standards or other analyses necessary to meet dam compliance schedules for compliance with water quality standards; and
- Participate in the design and or implementation of environmental protection, mitigation, and enhancement measures for fish, wildlife and habitat—as well as wildlife-oriented recreation—with particular focus on management requirements for state and federally listed species and state priority habitat and species, such as salmonids, bull trout, sturgeon, lamprey, and resident fish.

How it will work

Fees will continue to be assessed as established in 2007. Implementation of environmental goals will continue for decades into these 30-50 year licenses. Existing and proposed hydropower projects can continue to rely on participation by state agency staff to effectively develop and implement water quality certifications and other environmental FERC license requirements.

How it will benefit Washington

Eliminating the sunset of this funding allows Washington to continue generating power from our rivers while keeping them healthy for people and fish and wildlife.

How fees have been used by Ecology and WDFW

The fees collected from FERC-licensed hydropower projects fund agency staff to develop and implement environmental protection, mitigation, and enhancement measures included in FERC-issued hydropower project licenses. Ecology submits a biennial progress report to the appropriate committees of the Legislature to demonstrate that the fees were used as intended by law.

This report describes the progress made in three areas:

1. How license fees were expended in the current biennium and expected workload in the next biennium;
2. Any recommendations related to the license fees; and
3. Recognition of hydropower projects that exceed their environmental regulatory requirements.

To justify the appropriate use of fees collected under (b) of this subsection, the department of ecology shall submit a progress report to the appropriate committees of the legislature prior to December 31, 2009, and biennially thereafter ((until December 31, 2017)). The progress report will: 

(A) Describe how license fees were expended in the federal energy regulatory commission licensing process during the current biennium, and expected workload and full-time equivalent employees for federal energy regulatory commission licensing in the next biennium;

(B) include any recommendations based on consultation with the departments of ecology and fish and wildlife, hydropower project operators, and other interested parties; and

(C) recognize hydropower operators that exceed their environmental regulatory requirements.

The fees required in (b) of this subsection expire June 30, 2017. The biennial progress reports submitted by the department of ecology will serve as a record for considering the extension of the fee structure in (b) of this subsection.)
FERC Stakeholders
Questions and Discussion
Helpful Resources


RCW 90.16.050, Use of water for power development-Annual license fee: http://app.leg.wa.gov/RCW/default.aspx?cite=90.16.050


WDFW hydroelectric power webpage: wdfw.wa.gov/conservation/habitat/planning/energy/hydro.html
Agency Contacts

Department of Ecology
Don Seeberger
360-407-6489

[don.seeberger@ecy.wa.gov](mailto:don.seeberger@ecy.wa.gov)

Washington Department of Fish and Wildlife
Justin Allegro
360-902-2405

[justin.allegro@dfw.wa.gov](mailto:justin.allegro@dfw.wa.gov)
Thank You for Attending Today!