

HydroVision 2011 Regulatory Affairs Committee Meeting  
Compliance Notes  
July 25, 2011

In response to a growing demand from the NHA membership to focus on issues surrounding operational excellence, including compliance issues, NHA invited FERC DHAC Director Ed Abrams to the NHA Regulatory Affairs Committee meeting.

Ed attended and spent 45 minutes with approximately 20 attendees. Below is a short summary of the discussion. This was the third meeting this year of the Regulatory Committee focusing on regulatory compliance issues. The Committee held two conference calls earlier in the spring on these issues as well.

### **Abrams Opening Discussion**

- Expectation is that licensees will do what they say they will do when they said they would do it.
- Understands and recognizes that these projects are in the real world and things don't always go according to plan. (FERC has had over 400 self-reported deviations since October with only 10 that affected license obligations.)
- Ed encouraged licensees to work with their constituents to revisit settlements if you have a history of successful compliance established (10-15 years).
- Engagement – what you see is what you get. He is accessible and encouraged members to call. If you have doubts about an issue, call the staff and ask. Willing to help licensees when there are issues that occur that are not their fault.
- DHAC has added 4 staff since he took over.
- There are 750-800 cases pending with 20 percent requiring technical analysis.
- Branch structure – there are five: aquatics (TJ Lovello), NEPA/licensing (Steve Hocking), engineering (Bill Lee), land use (Bob Fletcher), surrender/review (Curt Cover)

### **O&A Session**

Q: Workload concerns for the division?

A: NEPA/licensing group has not seen a huge increase in workload though amendments for new capacity total more than the new capacity they are licensing for new projects.

Q: Perceived risk by industry to opening up licenses to do new capacity. Have other outside groups been seeking FERC to open up licenses?

A: No. They want to focus on the issue at hand. For example, if the capacity increase does not affect land use, then that will not be looked at in the amendment process. Licenses are a contract and they will keep a narrow focus.

Q: Licensing/Compliance handoff meetings, are they still happening?

A: Yes. They do favor them. Anyone can ask for one and FERC sends a letter with the issuance of a new license offering to have one.

Q: Willing to do roundtable industry outreach like this more often.

A: Yes. He wants to do it. (NHA note: we are examining a potential NHA conference session for 2012.)

Q: Unbuilt projects with issued licenses, still dealing with them?

A: There are 70 projects that are inoperative. If you haven't built a project in 15 years are you going to do so now?

Q: Environmental Compliance: when FERC approves a plan that the Corps needs to issue, the Corps takes lead on ESA consultation, but we are now seeing Corps staff wanting FERC to do it.

A: Not something he has experienced frequently and will have to investigate. Hopes they can work cooperatively.

Q: New projects: they get a license then go to final design or work with the Corps, but in that process may find that something has to be modified in the design. Is there something DHAC can do to assist? Guidance document issued?

A: Would recommend do a more thorough job in licensing phase up front. But call, let them know. If done right first, it does not have to be done over. Go to the stakeholder groups before filing the "as built" plans.

Q: Adaptive management: how do you feel about it?

A: Likes it. Things are not always a mathematical science.