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July 10, 2008

## July 2008 NHA-ILP Update)

### **MORGAN FALLS (P-2237)**

NOI filed Jan. 15, 2004

16.8 MW

<http://www.georgiapower.com/lakes/hydro/mfp.asp>

The first ILP initiated in the nation was completed by the issuance of a delegated order issuing a new license for the Morgan Falls project. The order was final as of June 22, 2008 with no rehearing requests. The order was issued and final prior to an effective date of March 1, 2009, after the current license expires February 28, 2009. The 30 year license order is consistent with Georgia Power's proposal to continue the current mode of project operations with no new construction or capacity, with minor environmental enhancements. The order recognizes an Off License Side Agreement (OLSA) reached with DOI, consistent with the Commission's Policy Statement on Hydropower Licensing Settlements, avoiding a trial type hearing request and an alternative conditions debate. The OLSA also resulted in no 4(e) terms and conditions or 10(j) recommendations. The Commission also determined that any emissions emitted by the project do not constitute a significant source of emissions, and where Georgia Power conveyed lands to the United States all rights were retained sufficient to carry out project purposes such that the Commission will not assess annual charges for the project's occupation of government lands. Georgia Power is very pleased with the out come of this ILP.

### Lessons Learned

GPC was able to work with mandatory conditioning agencies to reach a side agreement consistent with FERC's Settlement Policy, which FERC ultimately handled in a way that was acceptable and avoided an unacceptable outcome. It does take a lot of time, effort, expertise and negotiation however, to reach the side agreement.

### **CANAAN (P-7528)**

NOI filed Aug. 2, 2004

1.1 MW

FERC's EA was issued March 26 and the letter of inconsistency with 10(j) recommendations was issued March 28. The inconsistency letter covered reservoir refilling flows, upstream and downstream fishways, and fishway effectiveness studies. In its April 23 response FWS disagreed with FERC, especially on fishways, where it said "fail to give due weight to the expertise of state fisheries agencies or to Trout Unlimited and the Connecticut River Watershed Council, who have first hand knowledge of the upper Connecticut River and its fishery resources." Interior did not want to pursue this issue at FERC saying it would instead work with the State to include fishways in the WQC.

**DE SABLE-CENTERVILLE (P-803)**

NOI filed Oct. 4, 2004

26.6 MW

<http://www.eurekasw.com/DC/relicensing/default.aspx>

On October 2, 2007, PG&E filed their relicense application. PG&E continues to work on a variety of studies and modeling not completed by the time of FLA filing.

Numerous comments from stakeholders and agencies were filed in June. Interventions have been received from Interior, Forest Service, NMFS, Calif DFG, and others. Interior filed lengthy comments on June 26. Numerous administrative and site specific 4(e) comments were filed on behalf of BLM. Interior reserved Section 18; however, included fish ladder and fish protection recommendations under 10(j) comments. Forest Service in a lengthy filing requested 17 administrative 4(e) conditions and 19 project specific 4(e) condition. Calif DFG's 10(j) recommendations were with their intervention. NMFS filed a reservation of authority as a Section 18 condition and numerous section 10(j) conditions. Salmon and Steelhead were primary concerns.

**PACKWOOD LAKE (P-2244)**

NOI filed Nov. 10, 2004

26 MW

<http://www.energy-northwest.com/gen/packwood/relisce.html>

Energy Northwest filed the FLA at FERC on 2/25/08.

In a FERC April 4 additional information request letter, with a sixty response period, FERC said that Energy Northwest filed some plans such as a HPMP and the existing plans that govern current management of hazardous substances and noxious weeds, the Company had not filed the plans you proposed to develop in the PLP, and continue to propose in the license application, as FERC requested. As a result, several Additional Information Requests are specific to the filing of these plans as follows:

- Tailrace Water Temperature Monitoring and Enhancement Plan;
- Avian Protection Plan;
- Integrated Weed Management Plan;
- Rare Plant Management Plan; and

- Recreation Plan.”

This nine page additional information request was extremely detailed and indicative of FERC’s recent policy, expressed during the NHA Conference, to insist on complete resource plans in FLA’s. In a May 2 letter FERC extended the processing schedule to accommodate the sixty day AIR response time.

June 5 Energy Northwest responded to FERC April letter. June 19 FERC issued their REA notice, with comments and licensing recommendations due in 60 days and reply comments due in 105 days.

**Lesson learned:**

In the process of preparing and issuing draft study reports for review and comment by the agencies and stakeholders, Energy Northwest learned that in a summary or conclusion section there is a need to clearly state how the goals and objectives from the study plan were met. Their early reports did not call out the goal or objective, and the agencies disputed whether they were met. Later draft reports or revised draft reports clearly stated how they met the goals and objectives, and this has led to fewer or no comments on the draft report and less concern as to whether there is sufficient data to support a determination on project effects.

**SMITH MOUNTAIN (P-2210)**

NOI filed Oct 25, 2004

636 MW

<http://www.smithmtn.com/default.asp>

Appalachian Power Company filed the PLP November 1, 2007. Comment period ends January 31, 2008. Significant comments began to be filed in January 2008 and continue to be filed. The FLA was filed March 26, 2008 and the request for the WQC was filed with the state. FERC’s tendering notice was issued April 9. Interested agencies and others filed comments during April. On May 16 FERC declined to issue an REA notice and requested additional information due within 60 days. This request asked for a number of revisions to filed plans including more specifics in a number of places.

**AMES (P-400), TACOMA (P-12589)**

NOI filed May 20, 2005

**Tacoma development: 8.1 MW**

**Ames development: 3.5 MW**

<http://www.tacoma-ames.com/Default.htm>

Xcel Energy (licensee is Public Service Company of Colorado) filed preliminary licensing proposals with FERC on December 20 and 11, respectively, for the Tacoma and Ames Projects. Xcel also filed final recreation study reports for the Tacoma Project by letter of November 28 and final study reports covering cultural resources, recreation, land use and aesthetics resources, and water-terrestrial resources for the Ames Project by letter of January 3, 2008. Forest Service and FERC staff provided comments on the PLP

during early March 2008. Forest Service requested additional studies because some of the information required by the FERC's July 30, 2007, study determination has not been provided. The May 2 summary of the April study meeting showed that substantial discussions occurred on studies and the PLP. The FLA for Ames was filed June 26 and the FLA for Tacoma was filed June 25. The tendering notices with a procedural schedule was issued 7/8 for both.

Lessons learned:

- \* Licensee says that the ILP process is an improvement but at the end of the day it is still relicensing. Prepare for it with that understanding.
- \* Start early. They want to emphasize strongly the benefit of starting before the process begins. Get out and meet your stakeholders. See where they work and what they deal with. Give them tours of your projects so they understand what we are dealing with.
- \* Document, document, document. Start putting critical data together in clear format before you start the ILP. This will help the discussion and also save money and angst trying to organize it at the last minute.
- \* Be cooperative but also be firm. Don't let the agencies run your relicensing.

**HENRY M. JACKSON (P-2157)**

NOI filed Dec.1, 2005

112 MW

<http://www.snopud.com/WaterResources/relicensing.ashx?p=2334>

Snohomish County PUD on behalf of itself and the City of Everett have contracted with eleven consultants to conduct 21 of 23 studies over the course of 2007-2008. Two studies will be done by PUD staff. Several studies have been concluded following the first year and others are beginning second year execution.

All studies are on schedule to be completed in accordance with the Revised Study Plan. Because only limited data were available from many of the studies at the time of the ISR Meeting in October, many stakeholders were concerned about not having an opportunity to comment on the progression of the studies before the Updated Study Report meeting in the Fall of 2008. FERC staff requested that the stakeholders be allowed an "interim" opportunity to comment on the data and results of the studies before the second study season begins in earnest. The PUD agreed to schedule an Interim Comment on studies. Based on the technical reports issued, several stakeholders commented by the March 14, 2008 deadline. The PUD sent its response to stakeholder comments to the FERC by April 14, 2008. The FERC decided on May 14, 2008 that no further alteration in the Revised Study Plans is necessary.

**Meanwhile, various study technical reports continue to be developed and made available for comment by the stakeholders.**

Drafting of the License Exhibits continues. The PUD desires to have most of their development complete before the intense process of crafting the PM&E measures in the fall of 2008.

The deadline for developing the Preliminary License Proposal is December 31, 2008. The deadline for filing the final license application is May 31, 2009.

Lessons Learned:

### PAD Development Phase

The Licensees started 2.5 years before filing the PAD. Activities included hiring strategic consultants, assembling our current license documents, and making the necessary internal arrangements to be prepared for the relicensing process as we understood it at the time. This was before the ILP was formally adopted by the FERC and consultant contract adjustments were done as the ILP was finalized.

A “Resource Summaries for Consultation Document” was developed by the licensees which consolidates the pertinent known information before going out to meet the stakeholders informally a year before the PAD was due. This forced the licensee staff to get up to speed on the project and gave the stakeholders something to digest.

Stakeholders were not given the opportunity to comment on the PAD before submission to FERC with the NOI. This saved substantial time during the crunch of getting the PAD done.

FERC staff was shown a draft of the PAD a month before submittal. They gave fast turn around and insightful feedback so the formal submittal was acceptable to them.

### Study Development Phase

Stakeholder perceptions are driven by their experience, background and personality. After several initial meetings on the Proposed Study Plans, the licensees brought in additional consultants to address the issues in a context that accounted for these factors. Several subgroups were created to work on concerns about the proposed studies. Several of the Proposed Study Plans were rewritten to address stakeholder and FERC concerns. This led to acceptance of the Revised Study Plans by the FERC with very few additional comments or changes and avoided the study dispute resolution process.

### Study Implementation Phase

Selecting the best qualified consultants for each study requires more contract administration but yields excellent results which are worth the additional management effort. One example is that the ISR meeting went relatively smoothly with the consultants present to dialogue about the draft Technical Reports and process of the data gathering to date. However, some stakeholders may disagree with the results presented

or the techniques used to gather the data. Accommodation for the concerns is prudent if the results will be material to the project operation or risk to the resource. When the ISRs and associated meeting occur before study data is available, it is cooperative to allow an interim review and comment on the studies by stakeholders before beginning the final study season.

Openness to studying environmental conditions and making the results available to the stakeholders for discussion of relevancy to project operations has kept the discussions on the science of the river and project effects. Removing the struggle between stakeholders and licensees over which studies to conduct, and openly discussing the process of determining PM&E measures has been appreciated by all the parties to date.

Allowing an Interim Comment Period at a time that allows for more technical results from various studies to be assembled has helped the stakeholders feel comfortable with the study data collection to inform PM&E development process.

**MAHONING CREEK (P-12555)**

NOI filed Dec. 27, 2005

4.4 MW (new capacity)

<http://www.advancedhydrosolutions.com/Mahoning.html>

Mahoning Creek Hydroelectric Company (agent is AHS) provided FERC responses to proposed additions to study plans. On February 11, 2008, Director OEP provided his response to requested study plan changes. FERC said "Many of the comments filed by the Corps and PA Fish & Boat that concern aquatic resources, water quality, natural resources and wetlands, and cultural resources offer additional information, clarifications or opinions about the data collected, or data interpretation. Other comments are questions about Mahoning Hydro's proposal and potential mitigation measures. Although these comments do not constitute requests for studies, Mahoning Hydro should consider them in the preparation of their final study report, their Preliminary Licensing Proposal (PLP), and their license application." FERC also said certain studies weren't completed and must be by the final studies submittal. A study of the hydraulic modeling was added. On 3/3/08 an application for a subsequent preliminary permit was filed. AHS' It was noticed on 4/8. April 14 filing to FERC responded to Corps' comments and forwarded the recreational survey methodology. Interior on 6/4 had no comments on the preliminary permit application.

**CLAYTOR (P-739)**

NOI filed Jan. 6, 2006

75 MW

<http://www.claytorhydro.com>

Appalachian Power Company's (APC) held the Initial Study Meeting on November 28 and 29th. The Initial Study Meeting Report was filed on December 14th. The comment period ends on January 16, 2008. FERC will issue the Study Plan Determination by March 16, 2008. First year of studies has been completed. Current drought conditions have caused the schedule for several studies to be extended into the second year of

studies. Study report comments filed in January. FERC had comments on cultural, instream flows, and recreation resources. On 2/14 AEP responded to the comments. 3/17 the Director, OEP, responded to requests to modify studies. FERC said that a determination on proposals to modify the study plan for the Claytor Project is not appropriate at this time, due to the incomplete status of the studies. Instead FERC modified the study plan schedule (process plan) to include a determination, if necessary, following the filing of a second study report, meeting, and comment period in May-June of 2008. They also modified the schedule so the final study report is filed at the conclusion of the 2008 study season when all studies are scheduled to be completed. On 6/12 APC filed a summary of their second initial study meeting held in May. Comments on the meeting summary and the draft study reports / update reports are due July 14, 2008.

**GREEN ISLAND (P-13)**  
6 MW existing, 20 MW new capacity

NOI filed March 1, 2006

Green Island Power Authority's process plan and schedule calls for a draft license application to be distributed October 2008 and a license application by March 2009. FERC approved the revised study plan on January 10, 2007 with modifications, including several studies on water quality, fisheries, and geology and soils. In January, Green Island asked the Fish and Wildlife Service and others for assistance in determining if any federally listed endangered species, designated critical habitats, etc. will be affected by the project. Studies are underway. GIPA filed a study progress report with FERC on October 17. The Initial Study Report was filed on 1/10/08 and the study plan meeting will be on 1/25. On 3/5 FERC responded to the study report. FERC said no studies have been completed to date. According to the process plan and schedule, the preliminary licensing proposal (PLP) is due to be filed with the Commission and stakeholders by October 3, 2008. However, based on the initial study report and meeting notes, other than the fish passage study which would not be completed until the summer of 2009, FERC said it is unclear which studies will be completed by October 3, 2008 and when the final study reports will be distributed to the stakeholders. Albany Engineering (GIPA's agent) filed on March 20 a modified schedule. Most studies will be completed and filed with the PLP by October 3, 2008.

**WILLOW MILL (P-2985)**  
460 KW

NOI filed April 14, 2006

MeadWestvaco filed the Initial Study Report 2/15. The study report meeting summary was filed and FERC response was sent April 23. FERC requested additional information on bypassed reach flows and recreational access. MeadWestvaco filed on 6/6 a letter that a conceptual agreement had been reached with fisheries agencies on bypassed reach flows. Fisheries agencies then filed letters in agreement that in stream flow studies would not be needed.

**MASON DAM PROJECT (P- 12686 new project number)**  
3 MW (new capacity)

NOI filed April 27, 2006

The Commission issued the new preliminary permit to Baker County on January 19, 2007. On March 20, 2007, FERC issued a new project number (P-12686) and closed the docket under the old project number (P-12058). On March 22, 2007, FERC issued the study plan determination letter. Baker County promptly started studies. On October 18 FERC approved a minor modification to the study plan. On 12/31 Baker County requested minor changes in two cultural resources study plan, weather related. Results of certain studies were also filed. On 1/15 FERC extended the completion date for the cultural resources study one year-to be completed during the 2008 field season. On 1/25 FERC provided comments on the draft recreation study report. On 3/14 FERC commented on other draft study reports. On 4/4 Baker County filed the summary of the study plan meeting. Concerning certain studies a revised draft study plan will be completed incorporating the comments received by FERC and the Forest Service as well as the additional data collected during the field season. This draft will be completed by October 31st 2008 and the final December 31st 2008. On 6/2 Baker County submitted a response to comments made on the initial study report meeting. On 7/1 FERC supplemented there study plan determination letter. FERC said that additional requests for studies by agencies were not appropriate and did not require such. FERC did agree with Baker County on the need for studies on newly listed species.

**BOUNDARY (P-2144)**  
1,051 MW

NOI filed May 5, 2006

<http://www.ci.seattle.wa.us/light/News/Issues/BndryRelic/default.asp>

In the meeting summary was guidance from FERC of some interest to others doing an ILP. FERC stated: "David Turner (FERC) and Nick Jayjack (FERC) stated that SCL should make every attempt to provide as much detail as possible in the PLP regarding proposed Protection, Mitigation, and Enhancement measures (PMEs). David urged SCL to include as many non-operational PMEs as possible in the PLP. David stated that FERC expected to receive definitive plans for all PMEs in SCL's License Application, which are plans that could readily be converted into license articles that could be implemented by SCL. David stated that FERC wanted to avoid, to the extent possible, a situation in which the License Application included proposals which were simply plans for developing plans post-license. Further, David Turner stated that FERC would also expect definitive PME proposals from relicensing participants, i.e., conveying measures that could be implemented by SCL, in response to the PLP."

Comments, some of which proposed changes to the study plan, on the study report were filed in May 2008. Seattle City Light responded on 6/10. On 7/9 FERC responded to the proposed changes to the study plan by agreeing to only those proposed by Seattle.

**LAKE CREEK (P-2594)**

NOI filed May 31, 2006

4.5 MW

<http://www.norlight.org/LCRelicensing/>

Northern Lights, Inc. completed all field studies during 2007 and filed a combined Revised Initial Study Report and Updated Study Report in March 2008. With the study report filing, NLI also provided notice that it would not file a Preliminary Licensing Proposal for the Project, but will proceed with developing a draft license application as provided in 18 CFR §5.16. NLI is in the process of developing the draft license application as well as completing a draft BA, HPMP and other management plans for inclusion with the draft application. The entire relicensing process is over one-year ahead of schedule. All documents related to the Project's relicensing are available on NLI's website.

**Lessons Learned:**

NLI's philosophy throughout the process to date has been to manage the process rather than to allow external issues or participants to dictate schedule. While cooperating fully with the tribes, agencies and other stakeholders, the licensee has controlled the process within the constraints of the regulations. Early planning and execution of the process and frequent communications with agencies and tribes have proven to facilitate and to enhance the process. Open communications with all stakeholders has promoted a fluid implementation of the ILP; all efforts have been fully coordinated with active participants and all actions are taken only after communication and coordination. NLI started with pre-PAD meetings, shared drafts of the PAD and worked out study plans early in the process. Working early with the agencies meant that study planning proceeded extremely smoothly as everyone's expectations and limitations were known. A commitment among the licensee and stakeholders to a "no surprises policy" further facilitated the process. Because of this philosophy, the ILP has proceeded well within regulatory time constraints, while addressing the requirements for information related to potentially affected resources. With these strategies/policies NLI has so far avoided additional information requests or comments on any of its filings.

Start early. Communicate with the agencies, tribes and stakeholders frequently. Be of good will.

**MCCLOUD-PIT (P-2106)**

NOI filed July 27, 2006

368 MW

<http://www.mccloud-pitrelicensing.com/>

PG&E completed 1 year of relicensing studies and filed the Initial Study Report with FERC on June 4, 2008. The studies to date and been generally consistent with the schedules specified in the Study Plan. Only minor modifications to study methodologies

were necessary to accommodate circumstances encountered in the course of study implementation. These minor modifications were discussed with the Relicensing Participants and documented in the individual study sections of the ISR. As part of the ISR, PG&E did not propose to conduct any additional studies to support relicensing the Project as first-year study results did not identify any new resource issues, and the study methodologies, as approved by FERC, have been and continue to be successfully implemented to develop the data required to assess potential Project effects on environmental, cultural, and recreational resources. On June 11, 2008 PG&E conducted the required ISR meeting and subsequently filed the required meeting summary with FERC. The agencies and interested parties will have until August 3, 2008 to provide comments on the meeting summary, including any proposed modifications to ongoing studies or new studies. PG&E will then file its reply to any filed comments by September 2, 2008. If necessary, FERC will issue a Study Plan Determination by October 2, 2008. Implementation of the studies will continue through 2008. The draft License Application or Preliminary Licensing Proposal is due March 3, 2009, and the License Application is due by July 31, 2009.

**Lessons Learned:**

To address Relicensing Participants request to receive study data/information ASAP, PG&E has issued over 30 Technical Memos. These memos have not only been used to disseminate study information but also to document study progress, and minor modifications to study scope and schedule. The ISR consisted of summaries of the status of all 34 studies, the Technical Memos, and study data. The document ran over 2000 pages, however all of the Technical Memos had been previously issued to the Relicensing Participants.

**WELLS (P-2149)**  
774 MW

NOI filing date, Dec. 1, 2006

[www.douglaspud.org/relicensing](http://www.douglaspud.org/relicensing)

After comments on the PSP, Douglas PUD revised 5 of the 12 study plans. Douglas PUD filed the revised plan September 14. FERC approved the Revised Study Plan October 11. Douglas PUD initiated the formal study process. All 12 of the RSP studies are now underway and will continue through most of 2008. Studies are taking place in all four of the major resource areas including one cultural, two terrestrial, two recreation and seven aquatic resource studies. Quarterly progress reports are being provided to stakeholders to ensure continued stakeholder support for the relicensing studies. Results from these studies will be shared with the resource work groups as the reports become available. The next ILP deadline is October 15, 2008 with the filing of the Initial Study Report. On October 30, 2008 Douglas PUD will host the Initial Study Report Meeting.

**Lessons Learned:**

Douglas PUD's strategy of early engagement and early studies definitely has helped Douglas PUD staff write the PSP and it was useful in educating stakeholders as they now have concrete, scientific defensible study results to present to the agencies and tribes

**MASSENA GRASSE RIVER (P-12607)**  
2.5 MW (new capacity)

NOI filing date, December 8, 2006

On September 18, 2007 Massena Electric Department (MED) filed a revised study plan with the FERC. Leading up to this filing, several informal webinars and conference calls were held by MED to discuss the formal comments received from the stakeholders on the proposed study plan and to continue working with the stakeholders to further understand and resolve the issues identified. In parallel, MED continued to collect baseline 2007 study information for many of the proposed study areas of interest.

In an effort to share project information in a timely manner as it is developed and to receive agency feedback, MED held a project update meeting on October 19, 2007. During this meeting an agreed-upon schedule for future informational update meetings during the remainder of 2007 and extending into 2008 was established. These meetings will be held monthly with the agencies and stakeholders as needed. Meetings were held in November, December and January.

On October 19, 2007 FERC issued their Study Plan Determination. On November 8, 2007 a dispute letter was filed by the NY State Department of Environmental Conservation concerning five issues. On November 30, 2007, the Commission issued a notice which convened two dispute resolution panels (Panel 1 and Panel 2) and notified parties of a technical conference to be held in Syracuse, New York on December 12, 2007.

A Dispute Resolution Panel was set up in December and findings issued on December 19, 2007. In parallel with the DRP activity, MED worked closely with NYSDEC and resolved disputes among the two parties. This information was provided to the DRP, as available. Three of the five issues were settled outside of the DRP prior to the panel decision.

MED completed the field study data collection for the 2007 season and then prepared and distributed reports to the agencies and stakeholders. MED discussed four studies at the January meeting and four additional studies will be discussed at the February meeting. The results of the 2007 baseline data gathering, the scope of which was adjusted during the year based on agency input, will provide some of the information required by the 2008 study plans. Following the technical conference, by letter filed January 15, 2008, New York DEC withdrew its study disputes on the ice management, shoreline erosion, floodplain management, and sediment transport issues.

FERC's 1/17 letter said that if Massena Electric proposes modifications to the approved study plan to reflect any agreements it has reached with New York DEC or any other

party, it must do so in accordance with section 5.15 of the Commission regulations. The Panel found that an impoundment fluctuation study is not needed because Massena Electric proposes to operate the project in an instantaneous run-of-river mode. The Panel also recommended that Massena Electric prepare a draft operations and flow monitoring plan that would allow staff sufficient time to evaluate the adequacy of the plan to ensure run-of-river operation under typical operating conditions, as well as unusual or emergency situations, and make recommendations for correcting any deficiencies in the plan. FERC agreed with the Panel's findings. Final study plan modifications were filed 1/28. Certain agencies filed exceptions to FERC Study Plan Determination and Massena Electric requested an extension of time until after FERC responded to the exceptions.

On 3/14 FERC said that based on the extensive comments filed by stakeholders objecting to Massena's proposed modifications, the likelihood that additional study plan modification requests would be filed by Massena resulting from the February 12 meeting, and the time needed for staff to review comments and responses under section 5.15(c), it is doubtful that a decision could be rendered on all of the proposed modifications prior to the onset of the first study season, scheduled to begin in the spring of 2008. Therefore, FERC will not make any modifications to the approved study plan at this time. Massena's request for an extension of time to file final study plan modifications, therefore, FERC said was moot. On March 26 Massena responded to FERC's letter and comments received. Through April various agencies responded to FERC's study plan determination.

#### Lessons Learned

The ILP process requirements and the tight timeframes are difficult for the both licensee and stakeholders on a new project where existing environmental data is limited or not available.

#### **BEAR RIVER NARROWS (P-12486)**

NOI filing date, December 15, 2006

11 MW (new capacity)

On July 16, 2007, Twin Lakes Canal Company (TLCC) filed the Initial Study plan proposal was filed. The first study plan meeting was held August 28-30. On August 14 FERC issued Scoping Document 2.

On September 24 the Corps requested to be a cooperating agency in preparation of the NEPA document relating to their Section 404 permit. On October 1 study plan meeting minutes were filed. A revised study plan was filed on October 26. Extensive comments are coming in on the study plan. On October 24 Pacificorp filed a motion to have ILP and outstanding Preliminary Permit dismissed as they allege this project conflicts with their licensed Projects 20 and 2430 and a September 2002 comprehensive settlement reached with parties to those cases. In November and December a number of entities

joined with PacifiCorp's request for dismissal or provided comments agreeing with PacifiCorps. TLCC responded to the motion on 11/15.

TLCC filed a revised study plan on 11/28. On December 26 FERC issued a Study Plan Determination. FERC modified about half of the studies where disputes existed and required unresolved study components to be determined and a modified study plan be filed for approval. The potential conflict with PacifiCorps was not mentioned in the letter.

On 1/16/08 Interior's Bureau of Land Management filed an notice of dispute. BLM, acting in support of the Shoshone-Bannocks Tribes' (Tribes) interest in protecting potential traditional cultural properties (TCPs), filed a notice of study dispute against the exclusion of the Tribes' requested cultural study.

On April 15 TLCC filed a revised study plan for recreation. On April 29 TLCC filed a letter stating that several agencies, NGOs and private citizens that contributed to developing the Study Plan requirements are now taking actions that could prevent TLCC from conducting these studies as prescribed. These agencies, TLCC says, have supported a PacifiCorp-led action to prevent TLCC consultants from entering onto PacifiCorp owned lands in order to conduct studies. TLCC says they remain fully committed to conducting the necessary resource impact studies and to submit the findings of these studies. However, PacifiCorp's action could prevent these studies from being conducted. TLCC therefore asked FERC to grant them relief from the specific requirements of the 26-Dec-2007 FERC Study Plan Determination that cannot be met due to PacifiCorp's action.

On May 20 a FERC letter denied relief and said "With regard to access to Bear River Project lands, Article 13 of PacifiCorp's license states that on the application of any person, association, corporation, federal agency, state or municipality, a licensee must permit such reasonable use of its reservoir or other project lands in the interests of comprehensive development of the waterway involved. Therefore, we have sent a letter to PacifiCorp indicating that it should comply with Article 13 of PacifiCorp's license for the Bear River Project and allow you onto the Bear River Project lands and waters within the existing project boundary so that you may gather information for your pre-application studies." In a letter of the same date FERC told PacifiCorps that "I conclude that there is no compelling evidence at this time that the proposed project would materially affect or modify the operation of the upstream Bear River Project." That letter stated further that PacifiCorps had to allow Twin Lakes the access stated above. In a June 6 letter to TLCC, PacifiCorps said they would allow access AFTER TLCC provided the required "application" to PacifiCorps and after negotiation. On June 18 FERC further provided instructions on this to PacifiCorps.

**FALL CREEK DAM (P-12778)**  
10 MW (new capacity)

NOI filing date, February 15, 2007

Northwest Power Services on behalf of Fall Creek Hydro, LLC (Northwest or Symbiotics) filed an NOI and PAD on February 15, 2007. Fall Creek Hydro proposes to install a hydroelectric facility at the existing U.S. Army Corps of Engineers' Fall Creek Dam on Fall Creek in Lane County, Oregon.

On May 18, 2007, Northwest filed an addendum to the PAD, after FERC requested Northwest file an updated PAD or addendum to the PAD. This is now the new date for filing of the NOI and PAD. [FERC issued Scoping Document 1 on July 17, 2007, and held scoping meetings and a site visit on August 16 and 17, 2007.](#)

On 4/15 Symbiotics filed a revised study plan. On 5/9 FERC approved the revised study plan, with modifications. On 5/29 NMFS requested an extension to determine if they wanted to file a study dispute. On 6/2 FERC denied the request saying that having an employee out for an extended period was not a valid excuse.

**OTTER CREEK (P-2558)**  
18 MW

NOI filing date, March 29, 2007

The existing Otter Creek Project consists of three developments on Otter Creek: (1) the Proctor development located in Proctor, VT; (2) the Beldens development located in New Haven, VT; and (3) the Huntington Falls development located in Weybridge, VT. Vermont Marble Power filed its Pre-Application Document on March 29, 2007. [On 1/9 VMP submitted a revised proposed study plan. On 2/7 FERC issued a study plan determination stating Vermont Marble's revised study plan is approved with the following modifications: \(1\) data collection at modified bypass evaluation flows; \(2\) two additional study plans for reservoir drawdown; and \(3\) deadlines for filing of the draft and final historic properties management plan \(HPMP\). Vermont Marble filed a revised study plan on 3/25. On 5/9 FERC approved the revised study plan.](#)

**BRASSUA PROJECT (P-2615)**  
4.18 MW

NOI filing date, March 29, 2007

On March 29, 2007, licensees FPL Energy Maine Hydro LLC, Madison Paper Industries, and Merimil Limited Partnership filed an NOI/PAD for the relicensing of their Brassua Project, located on the Moose River in Somerset County, Maine. The licensees requested that FERC conduct the relicensing using ILP. The current license expires March 31, 2012, and a license application must be filed with FERC on or before March 31, 2010. On 3/6 FERC issued the study plan determination and approved the plan with certain requests for study modification concerning fisheries, terrestrial resources, cultural resources, and shoreline ownership and development inventory.

**NATURAL DAM (P-2851)**  
1.0 MW

NOI filing date, April 13, 2007

Cellu-Tissue's license for the Natural Dam project expires March 31, 2012. The project is located on the Oswegatchie River in Gouverneur, NY. On 2/22 FERC issued the Study Plan Determination. Study plans were approved with modifications requested concerning Delphi flow study and cultural resources.

**ROCK CREEK (P-12726)**

NOI filed April 17, 2007

2.3 MW (new capacity)

<http://www.eolp.net>

Eastern Oregon Light & Power Co., LLC (EOL&P) was formed to preserve the historic 1903 Rock Creek hydroelectric plant located in NE Oregon. EOL&P offers occasional public tours in cooperation with the local museum. The Pelton turbines, GE generators, and most of the meters and switchgear are original 1903 vintage. The plant ran until March 31, 1995, and was decommissioned in 2003.

EOL&P is proposing to restore the existing 800 KW back to operating condition, and construct a backup/spring run-off plant. This will allow the site to operate in a historically accurate manner for tours, but having the backup plant would relieve much of the operational pressure on the historic plant.

EOL&P e-filed their Revised Study Plan on January 23, 2008. FERC approved their RSP on February 12, 2008 “, without modifications.

**LESSONS LEARNED**

We are still early on in the process, but as everyone has stated – collaboration is the key. When it came to the study plan, even when there were requests or conditions that EOL&P deemed not to satisfy the ‘nexus’ requirement, we weighed the cost and delay factors associated with contesting them, versus the spirit of cooperation that could be gained from accommodating these requests. At this point, we have accommodated nearly all of those requests.

**EMERYVILLE HYDROELECTRIC PROJECT (P-2850)**

NOI filed May 31, 2007

3.5 MW

Hampshire Paper Company's (HPC) project is on the Oswegatchie River in St. Lawrence County, NY. HPC filed a revised study plan on 2/27. On 4/10 FERC issued a Study Plan Determination. FERC said all study issues have been resolved. However, they modified two studies to add additional consultation and clarity.

**SCOTLAND PROJECT (P-2662)**

NOI filed August 30, 2007

2 MW

First Light Hydrogenating Company's project consists of an existing 391-foot-long, 32.5 to 35-foot-high structure consisting of earth, gated, and Ambursen type dam sections, a 134-acre reservoir with a usable capacity of 268 acre-feet and a powerhouse at the east abutment containing a single 2,000 kW turbine generator. It is located on the Shetucket River in the town of Windham, CT. The Scotland facility is currently operated as a pulsing project whereby two feet of pond storage is used to operate the one unit at best gate, or when flows are high, at full gate. FirstLight is evaluating its options relative to future project operations including continuing with the current mode of operation or potentially converting the facility to run-of-river. FirstLight is currently evaluating how changes in project operation would impact generation at the site as well as the cost associated with modifying the existing unit. On 2/12 the PSP was filed. Also on 2/12 Scoping Document 2 was issued. On 5/12 FERC provided comments to be considered in preparing the final study plan. First Light filed a revised study on 6/11.

**SCOTLAND PROJECT (P-12968)**  
**Competing Application with P-2662**  
2 MW existing, 2.4 MW new capacity

NOI filed August 30, 2007

Norwich Public Utilities filed an NOI/PAD to compete with FirstLight's project. NPU proposes to expand the available generating capacity of the project. In addition to the single vertical propeller turbine and generator already present, the powerhouse would be equipped with a second generating unit consisting of a new vertical Kaplan turbine and a new generator with an installed capacity of 2,400 kW. The expanded Scotland Project would utilize a hydraulic head of approximately 26.9 feet and be capable of generating approximately 10,000,000 kWh on an average annual basis. NPU proposes to change the operation of the Scotland Project from the present store and release regime to a continuous run-of-river mode. PSP was filed on 2/08. Scoping Document 2 was issued on 2/12. On 5/12 FERC provided comments on the PSP. Revised study plan was filed on 6/11. First Light commented on that plan on 6/25 and Norwich responded to those comments on 7/3. Issues dealt with timing of competing studies, access to project lands and documents by competitors, potential unfair advantages to competitors, etc.

**THOMSON PROJECT (P-12741)**  
20 MW (new capacity)

**Start of Proceeding, October 8, 2007**

Albany Engineering Corporation's Thomson Project was granted a preliminary permit on March 6, 2007. It will utilize an existing dam owned by New York State Canal Corporation (NYSCC) and is located on the Hudson River. AEC filed an NOI on 9/20/06. The project had its request to use the TLP process denied on December 26, 2006. AEC filed a PAD on October 1, 2007. AEC has the property adjacent to the north shore of the Hudson River in Washington County where the proposed Thomson Project is to be developed, as well as with New York State Canal Corporation. AEC is confident it will have access to all required properties necessary to complete the required studies. A 12/11 letter from NY State Canal Corp states that based on state law, this developer would have to acquire a Hydropower Easement to develop the project. PSP

was filed on 1/21. Comments on the PSP are being filed. On 4/17 FERC commented on the PSP. On 5/20 AEC filed a revised study plan. On May 28 FERC issued, pursuant to an EPA request, a letter of understanding (LOU), establishes EPA's cooperating agency status as well as the protocols the EPA and Commission staffs will adhere to in the preparation of the NEPA document. On 6/19 FERC issued its study plan determination. The study plan was modified to evaluate effects of the increased impoundment area on shallow water habitats, wetlands, and riparian communities; how the wetland would be determined; hydraulic modeling; etc.

**MIDDLE FORK AMERICAN RIVER PROJECT (P-2079)** NOI filed December 13, 2007  
223.7 MW

<http://relicensing.pcwa.net/index.htm>

Placer County Water Agency filed the NOI on 12/13/07 for the five powerhouses project located in Placer and El Dorado Counties, California. The current FERC license expires on March 1, 2013. The PAD included 28 stakeholder approved technical study plans. In March 2008, FERC will initiate the NEPA process with a local scoping meeting, followed by a field visit in June, 2008. PCWA chose to implement a suite of technical study plans in 2007, prior to filing its PAD, and will continue implementation in 2008. On 4/11 FERC provided comments on the PAD and requested additional information. After consultation with stakeholders, on 5/23 PCWA requested that the study plan determination be expedited since agreement had been reached on studies and this would provide certainty for studies being implemented for 2008, and would allow stakeholders to focus their efforts on early completion of studies, evaluation of project effects and collaborative develop of new license conditions. On 6/18 FERC granted the request, waived the regulations and asked for final comments on study plan in 15 days.

**OSWEGATCHIE HYDROELECTRIC PROJECT (P-2713)** NOI filed December 28, 2007  
30.32 MW

Erie Boulevard Hydropower, L.P. filed their NOI/PAD on 12/2/2007. The project consists of six powerhouses located along 90 miles of the Oswegatchie River, within St. Lawrence County, NY. Scoping meetings will be held 3/25-26/2008. On 4/24 Brookfield Power (agent for Erie) filed comments on the scoping document. On 4/28 FERC determined that studies on aquatic resources, vegetation and wildlife habitat, recreation, and cultural resources are needed. The study plan proposal was filed on 6/11.

**YARDS CREEK PUMPED STORAGE HYDRO PROJECT (P-2309)** NOI filed 1/11/ 2008  
364.5 MW

Jersey Central Power and Light Company and PSEG Fossil LLC (licensees) filed the NOI/PAD on 1/11/08 for the project located on Yards Creek in Warren filed County, NJ. Scoping meetings and site visit are scheduled for 4/2/08. FERC's letter of 5/12 determined that additional information on the project boundary is needed. Also FERC

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determined that studies on water quality, fisheries, recreation, and cultural resources are needed. FERC said the information should be included with the proposed study plan, which needs to be filed on or before June 24, 2008. The PSP was filed on 6/24.

**WICKIUP DAM HYDROELECTRIC PROJECT (12965)**  
7.15 MW (New Capacity)

NOI filed January 22, 2008

Symbiotics, LLC as agent for Wickiup Hydro Group, LLC, (Symbiotics) filed their NOI/PAD on 11/22/08. The project would consist of a powerhouse and transmission line to be located at the U.S. Bureau of Reclamation's Wickiup irrigation dam and reservoir on the Deschutes River in Deschutes County, Oregon. On 8/20/07 Symbiotics filed a preliminary permit application that is still pending. By letter dated February 6, 2008, FERC notified Symbiotics that until a preliminary permit is issued to them for the subject project, the ILP would be held in abeyance in order to conserve FERC staff resources. On May 29, 2008 FERC restarted the ILP as a preliminary permit was granted Symbiotics on May 16. FERC's letter attached a revised plan and schedule for the ILP. The ILP notice will be issued 7/25, with scoping meetings on 8/19-20, and comments on PAD, SD1 and study plans due 9/23.

**OOLAGAH LAKE DAM PROJECT (P-12538)**  
25.7 MW (new capacity)

NOI filed January 31, 2008

Symbiotics, LLC agent for Oolagah Lake Dam Hydro, LLC (Symbiotics) filed an NOI/PAD on 1/31/08 for the U.S. Corps of Engineers' Oolagah Lake Dam located on the Verdigris River in Rogers County, Oklahoma.

On 3/7/08 FERC told Symbiotics that the preliminary permit issued on March 25, 2005 expired on February 29, 2008. On March 3, 2008, Symbiotics filed an application for a successive preliminary permit for the Oolagah Lake Dam Project. Because the submittal of the NOI and PAD does not grant the same rights as a preliminary permit, to conserve staff's resources, FERC said they would hold Symbiotics' Integrated Licensing Process (ILP) for the project in abeyance until such time that Symbiotics receive another preliminary permit. FERC further said "Should you receive a successive preliminary permit for this site, you may request that your ILP be reinitiated. To the extent that your proposal has not changed and the information has not become stale, you would not need to repeat completed ILP steps."

**SUTTON HYDROELECTRIC PROJECT (12693)**  
10.3 MW (new capacity)

NOI filed February 6, 2008

Sutton Hydroelectric Company LLC (Sutton) filed an NOI/PAD on 2/6/08 for the project to be located at the U.S. Corps of Engineers' Sutton Dam on the Elk River in Braxton County, WV. An existing preliminary permit expires 9/30/09. Scoping meetings were

held May 12. Comments are due June 12. On 6/5 FERC requested additional information related to the PAD. FERC requested additional information on recreation and cultural resources and required additional studies on fish entrainment and impingement.

**FRENCH MEADOWS TRANSMISSION LINE (2479)**

NOI filed February 21, 2008

No capacity

Pacific Gas and Electric Co (PG&E) filed their NOI/PAD on 1/21/08 for their existing 13.3 mile long, 60 kV transmission line that extends from the French Meadow powerhouse (Placer County Water Agency's P-2079—see above) to the Middle Fork Powerhouse. The project also includes a 900' 60 kV line and a 230 kV tap, both from PCWA powerhouses. All three transmission lines are wholly or partially on U.S. lands and in Placer County, CA. On March 25 FERC noticed the NOI and requested comments on the PAD and scoping document. Scoping meetings were held on both projects on March 4. Comments on the notice are due 5/27. FERC's 5/22 letter requested additional information on cultural resources and requested that provisions in the proposed study plans for the development of specific, detailed plans for implementing such measures.

**PINE CREEK MINE HYDRO PROJECT (P-12532)**

NOI filed February 29, 2008

1.5 MW (New Capacity)

Pine Creek Mine, LLC (Pine Creek) filed an NOI/PAD on 2/29/08 which was also the last day of their preliminary permit. A subsequent preliminary permit application was filed 3/3/08. The project would be located at an underground adit at the Pine Creek Mine. The Pine Creek Mine is a tungsten mine that began operating in 1916. The project would be located in Inyo County, CA near Morgan and Pine Creeks. On 3/3 Pine Creek filed another preliminary permit application for the project. A motion to intervene was filed by a potential competitor, KC LLC. On 3/10/08 FERC dismissed the motion saying that a motion to intervene in the ILP at the *pre*-application stage is not appropriate. Because Pine Creek Mine has not yet filed a license application, FERC said there is no proceeding in which to intervene. On 3/31 FERC said it was holding the ILP in abeyance until a preliminary permit is issued for this project.

**LAKE POWELL HYDROELECTRIC PROJECT (P-12966)**

NOI filed March 4, 2008

351 MW (New Capacity)

Utah Board of Water Resources (UBWR) filed the NOI and PAD on 3/4/08. This project is a component of the Lake Powell Pipeline water supply project that would convey Upper Colorado River Basin water from Lake Powell in Arizona to locations in southwest Utah.

The project is proposed to be located in Kane, Washington, and Iron Counties, Utah, and in Coconino and Mojave Counties, Arizona. One penstock would start approximately 25 miles from the water supply project's intake system and run about 7 to a powerhouse. Another penstock would start at a regulating tank, 51 miles from the water project intake, passing through multiple hydro stations, and terminating at the tailrace of the Sand Hollow Hydro Station, 11 miles east of St. George, Utah. The hydro project would consist of penstocks, in-line turbine generators, regulating tanks, forebay, shafts, tunnels, powerhouses, afterbay, transmission lines, and substations. NOI/PAD noticed by FERC on 5/5. Comments are due 7/3 with scoping meetings on 6/10-12. Numerous comments have been filed both for and against this pipeline project.

**JENNINGS RANDOLPH (P-12715)**  
13.4 MW (New Capacity)

NOI filed March 19, 2008

Fairlawn Hydroelectric Company LLC (agent Advanced Hydro Solutions (AHS)) proposes to add a 13.4 MW powerhouse constructed downstream of the Corps of Engineers' Jennings Randolph dam and reservoir (primarily flood control) in Garrett County, Maryland, and Mineral County, West Virginia, on the North Branch Potomac River. FERC issued the scoping document on 5/19 and also noticed the ILP on that date. Scoping meetings were held in June. .

**DRUM-SPAULDING (P-2310)**  
192 MW

NOI filed April 11, 2008

<http://www.drumpauldingrelicensing.com/>

On April 11, 2008, PG&E filed with FERC a Notice of Intent (NOI) and Pre-Application Document (PAD) to seek a new license for the existing Drum-Spaulding Project. PG&E is the owner and operator of the Project and holds the current FERC license, which expires on April 30, 2013. The Application for New License filing is due by April 30, 2011. The Project is located on the South Yuba River, Bear River, North Fork of the North Fork American River and tributaries to the Sacramento River Basin in Nevada and Placer counties, California.

Collaborative development of study proposals continues with relicensing participants. A supplement to the PAD is planned in mid-July 2008 that is expected to include additional collaboratively agreed to study plans (four were included with the PAD filing) and draft preliminary proposed study plans. Licensees' filing of the Proposed Study Plan is due by September 25, 2008.

FERC issued Scoping Document 1 (SD1) on May 22, 2008, for its NEPA process, held two public scoping meetings on June 24, 2008 (Auburn and Grass Valley, CA) and spent three days touring the projects during the prior week. Comments on the PAD and SD1 are due to FERC by August 11, 2008.

PG&E is conducting this relicensing in cooperation with Nevada Irrigation District (NID), owner and operator of the Yuba-Bear Hydroelectric Project (FERC Project No. 2266). PG&E and NID are cooperating on relicensing because the hydro projects are operationally interrelated, generally have physical features located in common watersheds and because the licenses have concurrent license expiration dates. PG&E is also relicensing its Rollins Transmission Line Project (FERC Project No. 2784), which serves NID's project and has a license that also expires on April 30, 2013.

Lessons Learned:

Relicensing Participants in California expect early collaboration on study plan development and beginning performance of some "high priority" (mostly aquatic) field studies in advance of the FERC ILP study plan determination schedule.

**ROLLINGS TRANSMISSION LINE (P-2784)**  
No Capacity

NOI filed April 11, 2008

The PG&E 's Rollins 60 KV tap delivers generation from NID's Rollins PH (P-2266 owned and operated by Nevada Irrigation District) 3,800 feet to PG&E's existing Drum-Grass Valley –Weimar 60 kV transmission line. See p-2310 above.

**YUBA-BEAR HYDROELECTRIC PROJECT (P-2266)**  
79.3 MW

NOI filed April 11, 2008

Nevada Irrigation District's (NID) project is located in Nevada, Sierra, and Placer Counties, California, on Middle Yuba River, Canyon Creek, Fall Creek, Rucker Creek and Bear River. The project consists of four developments: Bowman, Dutch Flats, Chicago Park, and Rollins. See P-2310 above.

**MARTIN DAM PROJECT (P-349)**  
182.5 MW NEW

NOI filed June 5, 2008

Alabama Power Company's project is located in Elmore, Coosa, and Tallapoosa Counties, Alabama, on the Tallapoosa River. The project consists of the 40,000 acre Lake Martin, Martin Dam, and one powerhouse. APC took advantage of this ILP newsletter to help us with strategic planning. APC started their process internally in June 2006 (about 2 years prior to NOI filing).

One of the first things APC did was prepare (what they called) a Preliminary Information Document (PID). Since APC was addressing issues early, they felt like stakeholders needed a good reference document on the project now, rather than waiting on the PAD, so they prepared and distributed the PID in December of 2006. It was essentially a PAD without the Study Plans

APC's interaction with stakeholders began in January 2007 (about 18 months prior to NOI filing). They did the usual things - stakeholder identification, issues workshop, etc. The single biggest issue is a higher winter pool elevation and longer summer pool duration. APC conducted an Agency Meeting prior to their first, broader stakeholder meeting. APC formed what they called Martin Issue Groups (MIGs) to address each of the major issue areas. They have a good stakeholder consensus that APC's 16 proposed study plans will address the issues

The FERC Scoping meeting is September 11th, with the site visit on September 10<sup>th</sup>

#### Lessons Learned

- Do as much as possible with stakeholders and issues before the NOI/PAD is filed and deadlines begin
- Include as much detail as possible in the Study Plans
- Make sure the stakeholders completely understand the criticality of the FERC deadlines (especially those stakeholders that were involved in our recently completed ALP)

#### Note:

On May 8, 2008 Albany Engineering, on behalf of Delaware County Electric Cooperative, filed an NOI/PAD for the Western Catskills Hydro Project No. 13222. That 63 MW proposed project, consisting of four developments, would use New York City water supply "West of the Hudson" reservoirs. A preliminary permit application was also filed on May 9, 2008. By letter dated May 20, 2008, FERC held the ILP in abeyance pending issuance of a preliminary permit.