



One Massachusetts Avenue, NW
Suite 850
Washington, DC 20001

Tel: 202.682.1700
Fax: 202.682.9478
www.hydro.org

January 25, 2007

Mr. Gregory H. Friedman
Inspector General
IG-1/5D-039/FORS
Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Re: Report DOE/IG-0750

Dear Mr. Friedman:

On December 18, 2006 the Department of Energy (DOE) released its report titled "The Federal Energy Regulatory Commission's Program to Oversee Hydroelectric Dams," DOE/IG-0750 (Audit Report). The National Hydropower Association¹ and its members read the report and have serious concerns about its findings and recommendations. The hydropower industry recognizes the importance of public safety and security and takes its responsibility to ensure the safety of its facilities very seriously. As such, NHA submits the following comments for your consideration.

The Audit Report states that "Our decision to address this topic again was influenced by the national effort to enhance security in the post September 11, 2001 environment." NHA understands that the DOE undertook this review in the interest of national security; however, we believe that some of the recommendations presented in the Audit Report, if implemented, could result in our nation's dam infrastructure becoming less secure, rather than more secure.

FERC licensees have been involved with the FERC Security Program for Hydroelectric Projects from the beginning. The numerous FERC licensee organizations represented on the FERC Security Committee provided the Commission with nationally recognized expertise in dam safety and infrastructure security. The large number of licensee representatives participating also provided a varied array of viewpoints on the subject of dam security. FERC, working with

¹ NHA is the national trade association committed exclusively to representing the interests of the hydroelectric power industry with members representing 61 percent of domestic, non-federal hydroelectric capacity. NHA's membership consists of more than 140 organizations including: public utilities, investor owned utilities, independent power producers, equipment manufacturers, environmental and engineering consultants and attorneys.

its Security Committee, developed a dam security program that is well-suited to the regulatory situation of the FERC-licensed dams.

By necessity, the FERC Security Program for Hydroelectric Projects is very different from the security programs for federal dams. The report notes that the U.S. Army Corps of Engineers (COE) and the Bureau of Reclamation (BR) have better documented dam security programs than the FERC does. There is no doubt that the COE and BR dam security programs are robust. NHA would also expect that their vulnerability assessments, security assessments, and plans for security improvements would be well-documented. From an auditor's point of view these would appear to be excellent yard-sticks by which to measure the FERC Security Program for Hydroelectric Projects.

There are, however, major and vital differences between the ability of federal dam owners and FERC to protect sensitive information. The federal agencies have the power to protect their security information from public disclosure and can therefore afford to collect and track security information. All information submitted by a licensee to FERC may be liable to disclosure to the public via the Freedom of Information Act (FOIA) process. While FERC does have the Critical Energy Infrastructure Information (CEII) designation available to provide some protection for sensitive information, it still may be subject to the FOIA process. FERC does not have the same power to protect sensitive information as the COE and Bureau of Reclamation do.

For these reasons, the FERC Security Program for Hydroelectric Projects was designed to leave sensitive information in the hands of the licensees: the dam owners. NHA believes they have the best chance of keeping this information secure and also have the strongest motivation for doing so. This is still the case today. The fact that the DOE auditors did not find some dam security information in FERC's files is not a sign that the FERC Security Program for Hydroelectric Projects is not working well. It is a sign that the program is working the way it was designed to work.

Requiring FERC to collect security information that cannot be protected would be misguided. A vulnerability assessment of a hydroelectric project provides a manual on how to destroy or disable that facility. Placing this information in a situation where it is vulnerable to public disclosure is unwise. For this reason, NHA recommends the current process remain in effect until regulations are adopted that ensure the complete protection of the information.

FERC has also required its licensees to go to great efforts to evaluate the vulnerability of critical dams to terrorist attack, and to review the security arrangements at all high hazard structures. Licensees have gone over the results of these assessments with FERC personnel and developed plans for improvements in physical security and security processes. Security measures have been integrated into Emergency Actions Plans for the dams. During the annual FERC inspection of each hydroelectric project, licensees review the security situation and security improvements made and planned for that facility. The records of this security work are retained by the licensee. This program is designed to provide the highest level of security possible for this information while keeping FERC fully informed of security measures.

NHA believes that it would be a mistake for the federal government to collect dam security information from FERC licensees where that information cannot be protected from disclosure. NHA and the hydropower industry continue to support FERC in the execution of their current dam security and dam safety program.

Representatives of NHA would be happy to meet with appropriate DOE personnel to further explain these comments on this very important issue.

Sincerely,

Linda Church Ciocci
Executive Director

Cc: Joseph T. Kelliher
Chairman, Federal Energy Regulatory Commission