

January 16, 2004

Mr. William Wandle
US EPA Region 1
Office of Ecosystem Protection (CPE)
1 Congress Street, Suite 1100
Boston, MA 02114-2023

Re: Comments of the National Hydropower Association (“NHA”) and the Utility Water Act Group (“UWAG”) on the Draft NPDES General Permits MAG360000 and NHG360000 for Hydroelectric Generating Facilities

Dear Mr. Wandle,

NHA and UWAG respectfully submit the following comments on the above referenced draft general permits published in the Federal Register on November 28, 2003 at Page 66826. We appreciate the opportunity to provide comment on the proposal, which we believe will have potential significant repercussions for hydropower project operators in the region.

Please feel free to contact us if you wish to discuss these comments or need any additional information.

Sincerely,



On behalf of:

Linda Church Ciocci
Executive Director
National Hydropower Association
One Massachusetts Ave., N.W.
Washington, D.C. 20001
(202) 682-1700

Frank M. Simms
UWAG Hydroelectric Committee Chair
American Electric Power
Hydro Support Manager
40 Franklin Road
Roanoke, Virginia 24011
(540) 985-2875

UNITED STATES OF AMERICA
Before the
Environmental Protection Agency
Region 1

NPDES General Permits for)	Nos. MAG360000
Specific Discharges at)	NHG360000
Hydroelectric Generating)	
Facilities in Massachusetts and)	
New Hampshire)	

**JOINT COMMENTS OF THE NATIONAL HYDROPOWER ASSOCIATION AND
UTILITY WATER ACT GROUP**

On November 28, 2003, the Environmental Protection Agency-Region 1 (“EPA-Region 1”) issued a “Notice of Availability of Draft NPDES General Permits MAG36000 and NHG36000” [68 FR 66,826 (November 28, 2003)]. In the Notice, EPA-Region 1 asked for comments on draft permits for specific discharges at hydroelectric generating facilities to certain waters of the States of Massachusetts and New Hampshire. The draft general permits establish notice of intent (“NOI”) requirements, effluent limitations, standards, prohibitions, and best management practices (“BMP”) for classes of discharges at hydroelectric generating facilities.

In response to the notice, the National Hydropower Association (“NHA”) and the Utility Water Act Group (“UWAG”) respectfully submit the following comments for consideration.

I. INTRODUCTION

NHA is the national trade association committed exclusively to representing the interests of the hydroelectric power industry. Our members represent over 61 percent of domestic, non-federal hydroelectric capacity and nearly 80,000 megawatts overall in North America. NHA’s membership consists of more than 130 companies including; public utilities, investor owned utilities, independent power producers, equipment manufacturers, environmental and engineering

consultants and attorneys. NHA's membership includes owners and operators of many hydroelectric facilities in Massachusetts and New Hampshire that would be affected by the adoption and issuance of the proposed general permits.

UWAG is a voluntary, ad hoc, non-profit, unincorporated group of 160 electric utility systems, which own and operate over fifty percent of the nation's total generating capacity. The Edison Electric Institute, the American Public Power Association, and the National Rural Electric Cooperative Association are also UWAG members. UWAG's purpose is to participate on behalf of its members in EPA rulemakings under the Clean Water Act ("CWA") and in litigation arising from those rulemakings. UWAG's membership also includes owners and operators of hydroelectric facilities in Massachusetts and New Hampshire that would be affected by the adoption and issuance of the proposed general permits.

II. GENERAL COMMENTS

Under the EPA's longstanding interpretation of the CWA, hydropower dams, generally, are not subject to the Act's Section 402 National Pollution Discharge Elimination System ("NDPES") program. In Section I of the Fact Sheet accompanying the general permits, EPA-Region 1 attests to this policy when it states "The general permit does not regulate the river flow through the turbines or over the dam." NHA and UWAG have always strongly supported this policy, and both organizations continue to do so.

However, with this proposal, the EPA-Region 1 is establishing NPDES general permits, not for generation flows or spill, but for various potential equipment discharges that may mix with a facility's tailrace. NHA and UWAG believe that there exist powerful, sound arguments that the miniscule discharges of oil, heat and total suspended solids ("TSS") potentially resulting from the operation of a hydropower project should not be subject to the CWA's NPDES

program. NHA and UWAG understand that others will provide these arguments in comments on the proposed general permits. So for purposes of addressing the proposal before us, NHA and UWAG will restrict these comments to the specifics of the general permits.

NHA and UWAG believe the proposed permits, as written, contain overly burdensome, unnecessary and duplicative requirements. The discharges covered under the general permits are minute, in fact, and when compared to the exponentially larger volumes of water in which they mix. As such, these discharges are likely to have only an insignificant effect on the overall water quality of the receiving water.

Additionally, the requirements contained in the general permits may duplicate or even conflict with Federal Energy Regulatory Commission (“FERC”) requirements contained in a project’s license. Under the Federal Power Act (“FPA”), FERC is the paramount licensing authority for hydropower projects. Many of the issues covered in the proposed general permits – trash rack debris disposal, Endangered Species Act (“ESA”) consultation, minimum flow requirements – are addressed by FERC with strong input from other federal and state agencies (including state water quality and federal and state fish and game agencies) during the licensing process. Any substantial change to a licensed project would require an application for amendment of the license and prior FERC approval before it could be implemented under the FPA. Over the years, much work has been done to reduce the complexity of the licensing process. NHA and UWAG wish to avoid any situation that may cause the process to become more duplicative, inefficient, and time consuming.

Therefore, EPA-Region 1 should reflect this small potential for environmental harm and great potential for inefficient and duplicative regulation, by imposing a far less burdensome regulatory regime than proposed in the general permits. Instead of the proposed permits, EPA-

Region 1 should issue either a simple rule or general permit authorizing the minor discharges covered by the proposed permits as not presenting significant environmental concerns. The rule or permit could require project owners and operators “to continue using best management practices (“BMPs”) to minimize the levels of such discharges and to manage them responsibly.” In the comments in Section III to follow, NHA and UWAG will discuss in more detail our concerns with the proposed discharge limit, monitoring and reporting requirements and why those requirements should be eliminated.

III. SPECIFIC COMMENTS ON THE GENERAL PERMITS

A. Types of Covered Discharges

The general permits impose effluent limitations, monitoring requirements, and other conditions for specific discharges from hydropower facilities in Massachusetts and New Hampshire. The covered discharges include equipment cooling water, equipment and floor drain water, equipment maintenance-related water, equipment-related backwash water, and maintenance-related internal drainage water. NHA believes that the general permits requirements for some of these discharges are unnecessary, impractical, and in some cases, dangerous to implement, and should be eliminated.

1. Dewatering and Flood Event Discharges

In Sections A.3 and B.3 of the general permits, EPA-Region 1 proposes limits, monitoring and reporting for pH, oil/grease and flows discharged during “equipment dewatering and sump dewatering” and during flood/high water events. The dewatering process is intended to empty the turbine unit of water, to keep upstream river water from leaking into the unit, and to keep downstream river water from backing up into the unit during high tailrace water elevation. The water that is emptied downstream from the

turbine unit is the same upstream river water that is used for hydroelectric generation, which, as already mentioned, is not subject to regulation under the NPDES program. Thus, dewatering a turbine does not create a discharge that needs to be or should be monitored. Additionally, the permit would require monitoring of sump dewatering. At most facilities, it would be impossible to obtain samples of this water as the leakage discharges directly from submerged drains into the tailrace and is therefore inaccessible.

With regard to discharges from emergency flood/high water devices as described in the general permits, these discharges would be utilized only during extreme high water conditions, which by nature constitute a facility emergency. These devices are used in rare circumstances and for very short durations sufficient enough only to control the flooding emergency. If sampling under such conditions is even possible, it would be extremely impractical and potentially dangerous to obtain the samples from this type of discharge because the facility may be flooded during these high water events, making the facility inaccessible. In addition, these discharges would be very small in comparison to river flows that cause the flooding emergency. In all cases of these types of discharges, it would be virtually impossible to estimate volumes of flow through these discharges as required under the general permits.

In Section 2 on Page 4 of the Fact Sheet, EPA-Region 1 states that “the potential for oil and grease or other pollutants to be present in these discharges is insignificant.” Note 1 of general permits Sections A.3 and B.3 discusses the No Data Indicator Code E to use on Discharge Monitoring Reports (“DMRs”) that applies when a sampling point is inaccessible. In virtually all cases of discharge under this section of the general permits, sampling points will be inaccessible, so that DMRs for these discharges would provide no

actual sample information to EPA-Region 1. Therefore, NHA and UWAG recommend that these requirements be eliminated.

2. Internal Drain Water

In Sections A.5 and B.5, EPA-Region 1 proposes requirements for facility maintenance-related internal drain water, specifically internal dam drainage and other headwall drainage. NHA's and UWAG's understanding of the general permits is that monitoring of internal dam drainage and other headwall drainage would also include monitoring of embankment drains and other relief drains. NHA and UWAG are concerned that such monitoring may be logistically difficult to achieve and would place an unnecessary burden on project owners and operators. Therefore, NHA and UWAG recommend these requirements be eliminated.

B. Particular Effluent Characteristics

The particular effluent characteristics covered under the general permits include flow, pH, TSS, temperature, and oil and grease. NHA and UWAG believe a number of these requirements are unnecessary.

1. Temperature

In Sections A.1, A.2, B.1 and B.2 of the general permits, the EPA-Region 1 requires monthly temperature reporting. NHA and UWAG believe that temperature variation caused by these discharges will be minute, as the discharges are immediately mixed with exponentially larger volumes of water not subject to regulation by the permits. Additionally, EPA-Region 1 properly chose not to prescribe any permit limitations on temperature in the permitted discharges. Because the effect of the discharge on the receiving water is negligible and the discharge is not subject to limitation, NHA and UWAG suggest that EPA-Region 1 eliminate the temperature requirements.

2. pH

The general permits set the acceptable pH value at 6.5 to 8.3 or 8.5 standard units (su) depending on the discharge. For the most part, hydroelectric generating stations do not have the means to modify the influent water pH. Background pH levels vary seasonally and with the amount of river flow. In response to comments regarding some individual NPDES permits in Massachusetts, EPA-Region 1 indicated that it agreed that hydroelectric stations use river water and return it back to the river without the addition of any chemicals or significant heat. To provide for this situation, NHA and UWAG suggest the addition of language to the acceptable pH range such as “or not more than 1.0 standard units outside the background range.” This would allow the permittee to operate within the boundaries of the permits recognizing that naturally occurring pH of the influent water changes over time.

3. TSS

In Sections A.4 and B.4, the general permits require monthly monitoring of TSS for equipment-related backwash water. As with temperature, the general permits do not limit backwash discharges, yet they still require TSS to be sampled for laboratory analysis and reported. Backwash strainers operate on the inlet (upstream) side of a facility supply water line from the river. Water is “pulsed” under pressure back through the inlet screens in order to remove naturally occurring debris, leaves and sediment from the inlet before the incoming supply water encounters any facility equipment and causes damage. Hence, backwash strainer water contains naturally occurring TSS that has accumulated on the supply intake screens. For this reason, and since TSS is not subject to permit limitation, NHA and UWAG recommend that this requirement be eliminated.

C. Concurrent Sampling and Sample Points

The general permits require samples from an outfall to be taken concurrently. For several reasons, concurrent sampling is not always possible. Weather conditions, flow volumes and equipment operation at the time of sampling may prevent an operator from collecting all the necessary samples. Therefore, NHA and UWAG suggest that the EPA-Region 1 amend this language to require concurrent sampling only when feasible.

NHA and UWAG are also concerned as to how many discharge points require sampling. The general permits require that each outfall must be sampled, but they also state that “If the discharge is commingled with another discharge prior to mixing with the receiving water, samples shall be taken before such commingling.” Again, not all facilities may be able to meet this requirement. Separating these discharges to provide for “up-the-pipe” sampling would, in most cases, require a re-engineering and reconstruction of the facility. At many facilities there is no access to the “point” of the discharge, which is often a closed system in the tailrace or somewhere in the dam footings. Sampling these locations could require shutting off the flow to the tailrace, which could have enormous environmental consequences and would likely violate FERC license terms and conditions that require minimum flows in tailrace and bypass reach areas. Also, the commingled discharge constitutes the actual discharge that is subject to the general permits and should be the discharge monitored, rather than the individual streams contributing to the commingled discharge.

As the ultimate purpose of the general permits is to protect the quality of the receiving waters, NHA and UWAG recommend that the focus of the general permits should be on the actual point of discharge, irrespective of commingling that may occur in the plant. The permit monitoring program should provide flexibility to determine the most appropriate and

representative sampling point(s); for example, sampling in the sump rather than the discharge due to accessibility problems.

D. Sample Frequency

As referenced above, the general permits delineate five types of discharges that must be sampled, some on a monthly basis. NHA and UWAG believe that monthly sampling is not needed and that there are limited benefits, if any, associated with the extensive sampling scheme proposed in the general permits. Many of the activities proposed to be regulated under the general permits, especially maintenance activities, are periodic in nature and may occur only once or twice a year. NHA and UWAG believe that proposing monthly monitoring of discharges that may only occur annually or semi-annually is wasteful and unnecessary.

With unmanned stations at distant locations becoming more and more common, obtaining monthly samples could also present a substantial logistical challenge to owners and operators due to extreme weather conditions, sample holding time and lab accessibility. Additionally, if discharges must be sampled prior to mixing, an even larger number will be required at each station. NHA member organizations have data showing compliance with state water quality standards due to information acquired during the FERC licensing process. The data show that sample results are well below the discharge limitations proposed in the general permits.

In the past, in response to comments regarding draft NPDES permits for some facilities in Massachusetts, EPA-Region 1 agreed to eliminate monthly and quarterly monitoring and reporting requirements in favor of an annual self-certification report. In making its decision, EPA-Region 1 reasoned that most discharges that affect water quality are ancillary to the direct process of generating electricity at a hydroelectric station and result mostly from oil spills, equipment leaks, and improper waste storage. Therefore, requiring the submittal of discharge

monitoring reports (DMRs) on specific dates would not necessarily reflect a discharge problem that would be best revealed by timely BMPs (e.g., inspections and testing of plant equipment and systems). In its response, EPA-Region 1 reasoned that pollution prevention rather than wastewater treatment was of primary importance and that within the NPDES program, BMPs are inherently pollution prevention practices.

NHA and UWAG strongly recommend suspending sampling and instead relying on BMPs. If EPA-Region 1 does not adopt this recommendation, at a minimum, it should reduce the proposed sampling burden by adopting a number of relief mechanisms. These should at least include adding “same as” language to allow one sample to represent up to five similar discharges, and instituting semi-annual or quarterly sampling in lieu of monthly sampling, and allowing for less frequent sampling after a number of consecutive successful samples (i.e., less than 50 per cent of proscribed limits), and allowing for less frequent sampling from companies participating in environmentally accredited programs, such as the EPA’s National Environmental Performance Track.

E. Endangered Species Act Consultation

NHA and UWAG submit that the requirement for individual consultation with the National Marine Fisheries Service (“NMFS”) for certain waters in Massachusetts is unnecessary and ill-advised. The proposed general permit for Massachusetts requires operators to consult with NMFS in order to obtain coverage under the general permit if they discharge to the Merrimack and Connecticut rivers in Massachusetts. Coverage by the general permit will be denied unless the individual consultation results in either a no jeopardy opinion or a finding that the discharger is not likely to adversely affect the shortnose sturgeon or critical habitat. Thus, in addition to the ESA consultation that will take place for the general permit itself when renewed

every five years, operators will be required to perform individual consultations as well to qualify for coverage under the general permit.

NHA and UWAG believe this requirement is unnecessary, burdensome for operators and duplicative. Individual dams are covered by FERC licenses, which fully address the requirements of the ESA. Requiring a virtually identical consultation every five years when an NOI has to be resubmitted would needlessly duplicate the work performed by FERC and federal and state natural resource agencies and create the possibility of inconsistencies between the requirements contained in the FERC license and the consultations required for the NOI.

Under the FPA, the minimum term of a license is 30 years and a license may be altered only upon mutual agreement of FERC and the licensee. Thus, a hydropower project is not subject to the risk of new conditions being imposed as a result of repeated certifications and/or consultations at such frequent intervals. One of the important goals of the FPA licensing process is to enable a licensee to determine if continued operation of a project and the expenditure of funds for any required improvements make economic sense and whether a license for the project should be sought or renewed. EPA's proposed general permit could result in these regionally important and strategic facilities being subjected to never-ending consultation and potential changes that render a project uneconomic shortly after significant expenditures to improve environmental conditions have been made in reliance upon a long-term license issued by FERC. Such a result would conflict with the primary purpose of the FPA to attract and protect private investment in hydroelectric developments.

In addition, many licensed projects already have a Clean Water Act Section 401 certification from the state that address the discharge of oil from a project, have fish and wildlife conditions recommended by state and federal agencies included in their license, and have

undergone ESA consultation with NMFS as well as the Fish and Wildlife Service. Therefore, requiring that Section 7 consultation occur every five years would consume private and public resources without providing a corresponding environmental benefit. It would also disrupt the exercise of FERC's comprehensive licensing authority, which typically involves several years of analysis prior to the issuance of a license. This analysis comprises a comprehensive regulatory investigation and the balancing of interests including, but not limited to, federal and state economic, cultural, recreational, irrigation, environmental, water quality, and fish and wildlife concerns. Implementation of the CWA is but one of the many interests that must be considered under the FPA to determine what kind of project best serves the public interest.

Furthermore, the permissible scope of the ESA consultation with NMFS is also a potential issue. The EPA Fact Sheet states that NMFS provided only a conditional concurrence: "The NMFS previously informed EPA that the shortnose sturgeon (*Acipenser brevirostrum*) is an endangered specie inhabiting certain reaches of the Merrimack and Connecticut Rivers in Massachusetts. ... NMFS determined, if operators consult with NMFS prior to their facility receiving General Permit coverage, the issuance of this General Permit is not likely to adversely affect endangered or threatened species under the jurisdiction of NMFS." Accordingly, the draft permits designate the operators of these facilities as non-federal representatives to allow informal consultation or preparation of a biological assessment ("BA").

Under applicable ESA regulations, the contents of a biological assessment are at the discretion of NMFS and will depend on the nature of the federal action.¹ However, these regulations also indicate that a BA may include an analysis of the effect of the action on the species and habitat, including consideration of cumulative effects and an analysis of alternative

¹ 50 C.F.R. § 402.12 (2003).

actions. “Cumulative effects” are those effects of future state or private activities that are reasonably certain to occur within the action area of the federal action subject to consultation.² The “effects of the action” include direct and indirect effects of the action together with the effects of other activities which are interrelated or interdependent with that action.³ Thus, it is unclear whether the scope of the consultation would be limited to the effect of issuing the proposed general permit on shortnose sturgeon, an issue that is already addressed through EPA-Region 1’s consultation with NMFS, or whether NMFS would request additional analyses or conditions related to other project activities – the extent of the potential further consultation is simply far too open-ended.

Again, NHA and UWAG state that the discharges covered by the permit are minor and will likely have a very small impact on the environment. Using these minor, benign discharges as the rationale for subjecting hydroelectric facilities to what could amount to a “mini-relicensing” process every five years that includes Section 7 consultation is simply inappropriate and is completely counter to the purpose of the Federal Power Act. Such a process would be a significant waste of resources. Moreover, it could, over time, threaten the viability of a significant portion of the nation’s hydroelectric resource base. Therefore, NHA and UWAG recommend that EPA-Region 1 delete the ESA consultation requirement for individual NOIs, relying instead on the consultation already undertaken on the general permits.

F. Trash Rack Debris Disposal

Sections A.7 and B.7 of the general permits state that “all solid materials except for naturally occurring materials ...will be removed from the trash racks and be land disposed.” NHA and UWAG believe this is another requirement that is unnecessary and duplicative. Trash

² Id. § 402.02.

³ Id.

trash rack debris management is regulated when necessary by FERC through the licensing process and is often addressed under a project's Section 401 certification. Again, NHA and UWAG are concerned that by including this requirement in the general permits, the possibility exists that inconsistencies will develop with FERC license requirements. Also, trash that originates upstream and is not "added" by the dam is not covered by the Section 402 permit requirement. As trash rack debris management is already adequately regulated, NHA and UWAG recommend EPA-Region 1 delete this requirement.

G. Pumped Storage

NHA and UWAG request clarification on the potential exclusion of pumped storage facilities from coverage under the general permits. NHA maintains that water utilized in the operation of a pumped storage facility is indistinguishable from water passing through a conventional hydroelectric facility. In revising NPDES discharge permits for a Massachusetts pumped storage facility to ensure that the pH monitoring requirements were consistent with that of a conventional hydroelectric station, EPA-Region 1 seemed to agree with this assessment. Furthermore, a summary of sampling data in its 2000 renewal application proved that its discharges were consistently within the acceptable range for pH and below the detection limit for oil and grease in its current NPDES permits. These levels were also lower than the thresholds proposed in the general permits. Given the discharge history at pumped storage facilities, NHA and UWAG is concerned that EPA-Region 1 is making an unfounded and inappropriate distinction between pumped storage and conventional hydroelectric facilities.

H. Regulation of Instream Flows

The "Fact Sheet and Supplemental Information" document accompanying the draft general permit explains that a hydroelectric licensee will not be eligible for general permit

coverage under a variety of circumstances including if “[s]treamflows are not maintained at levels to protect existing or designated uses as established in the state’s water quality standards.” (Fact Sheet, Sec. III, p. 4). The Clean Water Act Section 402 NPDES permit program authorizes EPA and States with delegated NPDES authority to regulate the discharge of pollutants, not streamflows. As EPA itself states, “The general permit does not regulate river flow through the turbines or over the dam.” (Fact Sheet, Sec. I, p. 1) Therefore, streamflow issues may not be addressed in the NPDES permitting process and cannot be used as a rationale for excluding a licensee from eligibility from general NPDES permit coverage.

NHA and UWAG are concerned that by advancing the adequacy of streamflows as a reason to require an individual permit, EPA is seeking to do indirectly what it cannot do directly, which is regulate streamflows under Section 402. To the extent the CWA provides any authority to require certain streamflows at a hydroelectric project necessary to protect existing or designated uses such authority occurs under Section 401 of the CWA, not Section 402. In *PUD No. 1 of Jefferson County v. Washington Department of Ecology*, 511 U.S. 700 (1994) the Supreme Court held that a State could impose conditions on a proposed FERC-licensed hydroelectric project to require compliance with applicable water quality standards including the qualitative portions of such standards relating to existing and designated uses.

Any effort by EPA or a State to directly or indirectly regulate streamflows under Section 402 would also conflict with FERC’s comprehensive licensing authority under the Federal Power Act. *First Iowa Hydroelectric Cooperative v. Federal Power Commission*, 328 U.S. 152 (1946). The Supreme Court specifically held that it was unlawful for a State to attempt to impose streamflow requirements that interfered with the requirements of a previously issued FERC hydroelectric project license. *California v. FERC*, 495 U.S. 490 (1990). Similarly, neither EPA

nor a State with delegated authority may regulate streamflows under Section 402 of the CWA. Finally, Section 6 of the Federal Power Act provides that a hydroelectric license “may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days’ public notice.” 16 U.S.C. § 799. Therefore, neither EPA nor a State may indirectly modify the terms of an existing license relating to streamflows through an NPDES permitting process and the proposal for a general NPDES permit should be modified accordingly.

Similarly, EPA should not bar a licensee from eligibility for general NPDES permit coverage due to “[r]eceiving stream characteristics, including possible or known water quality impairment” or a “[r]ecommendation from a State.” (Fact Sheet, Section III, p. 4). These factors are extremely vague and would permit EPA to deny general permit eligibility in an arbitrary and capricious manner. For example, if a receiving stream is water quality impaired due to factors unrelated to the project’s discharge of pollutants that EPA seeks to regulate under Section 402, then there is no basis for refusing to make the general permit applicable to such discharge. Eligibility for the general permit should only be denied based on specific and unique facts regarding the point source discharge of pollutants that EPA seeks to regulate under the NPDES program that indicate that the provisions of the general permit are not adequate.

I. Dual Federal and State Enforcement

The general permits provide the EPA-Region 1 and the States of Massachusetts and New Hampshire the individual right to enforce the terms and conditions of the permits. Each of the enforcing authorities has the power to modify, suspend or revoke the permits, with such action effective only with respect to the particular enforcing agency.

The Supreme Court has ruled that dual regulatory regimes with dual final authority are unworkable. *First Iowa Hydroelectric Cooperative v. Federal Power Commission*, 328 U.S. 152

(1946). NHA and UWAG are concerned that this enforcement scheme has the potential to result in a single NPDES permit with two different standards, one state and one federal. Combined with the additional potential problem of resolving conflicts between NPDES permit requirements and FERC license requirements, this situation would surely cause confusion for owners and operators and result in added compliance costs. At a minimum, therefore, EPA-Region 1 should defer to state enforcement of the general permit.

IV. CONCLUSION

NHA and UWAG again express appreciation for the opportunity to submit comments on the proposed draft general permits. As the general permits will have potential significant repercussions for hydropower project operators in the region, we ask EPA-Region 1 to carefully consider the recommendations contained in this filing.

Hydropower is the nation's largest provider of clean domestic energy that is vitally important to the operation of the nation's electricity generation and transmission system. NHA and UWAG strongly believe hydro projects and healthy rivers can co-exist and that hydropower operators are good stewards of the water resource. With these recommendations, we believe EPA-Region 1 can achieve necessary environmental protection, while also reducing unnecessary and duplicative administrative burdens.

Submitted by:



On behalf of:

Linda Church Ciocci
Executive Director
National Hydropower Association
One Massachusetts Ave., N.W.
Washington, D.C. 20001
(202) 682-1700

Frank M. Simms
UWAG Hydroelectric Committee Chair
American Electric Power
40 Franklin Road
Roanoke, Virginia 24011
(540) 985-2875