

Overview: The FERC Surrender Process



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Some FERC Terminology

License Surrender vs. Dam Decommissioning

- The two may not be the same;
- Most FERC surrenders do not include dam removal;
- A FERC surrender can range from full removal and restoration to simply disabling generation (permanently) and leaving all facilities in place;

Voluntary Surrender vs. Implied Surrender

- In a voluntary surrender, the licensee willingly gives up the license;
- Voluntary surrender = what we are discussing today;
- In an implied surrender, FERC terminates the license as an enforcement action;

FERC Surrender Regulations

- Licenses: 18 CFR 6.1 and 6.2
- 10 MW Exemptions: 18 CFR 4.102 [almost identical]
- Conduit Exemptions: 18 CFR 4.95 [almost identical]

Note:

1. FERC's regulations provide very little guidance on how to go through the surrender process;
2. Each surrender is unique and very site specific;
3. Research: Look at FERC's DHAC Compliance Handbook (www.ferc.gov) and recent surrender proceedings in eLibrary for examples;

FERC Surrender Process

1. FERC reviews surrender application for any deficiencies;
2. FERC issues any additional information requests;
3. When the application is complete, FERC issues a 30-day public notice;
4. FERC always completes a NEPA analysis, usually an EA;
5. FERC also completes any other statutory requirements (ESA, NHPA, CWA);
6. FERC Regional Office conducts dam safety inspection;
7. FERC issues an Order on Surrender, usually with conditions (not effective yet);
8. Licensee must complete all conditions in Surrender Order;
9. FERC Regional Office completes final inspection to verify conditions satisfied;
10. Surrender Order becomes effective, and FERC jurisdiction ends;

FERC Surrender Application

Decommissioning Plan

- Must permanently disable generation;
- Must address all project facilities (remove, modify, or leave in place);
- Must address any outstanding dam safety issues;
- Must contain a schedule for completing all work;

Environmental Report

- Must describe the existing environment;
- Must describe anticipated environmental effects from the Decommissioning Plan;
- Must propose any needed PM&E measures to address identified effects;
- Must propose restoration of any affected federal lands (USFS, BLM, Corps, etc.);
- The environmental report may be in the form of a draft EA;

Consultation Record

- Must document pre-filing consultation with agencies & stakeholders;

A Few Final Notes

- The proposed action can range from full removal and restoration to simply disabling generation and leaving all facilities in place;
- The licensee must propose what to do with all project facilities. Then FERC makes the final decision after considering all comments;
- Projects that provide important non-generating benefits like flood control, water supply, or significant recreation are often surrendered in place;
- No surrender can move forward with significant dam safety issues;

Questions

