

DEPARTMENT OF THE ARMY
Corps of Engineers, Northwestern Division
P.O. Box 2870
Portland, Oregon 97208-2870

CENWD-MT-E
Regulation
No. 1110-1-4

15 April 2003

Engineering and Design
NON-FEDERAL HYDROELECTRIC POWER DEVELOPMENT AT
NORTHWESTERN DIVISION PROJECTS

History. This is a new Northwestern Division (NWD) regulation.

Summary. This regulation provides authorities and responsibilities delegated to the NWD District Commanders by the Federal Energy Regulatory Commission (FERC) regarding non-Federal hydroelectric power development.

1. PURPOSE. This regulation provides the policy, guidance, and process to be used for review of and recommendations on preliminary permit and license applications, and the approval of designs, plans, specifications, and memorandums of agreement (MOA) pertaining to non-Federal hydroelectric power development at or affecting Corps of Engineers' water resource projects in the Northwestern Division (NWD). All non-Federal hydroelectric power development is regulated by the Federal Energy Regulatory Commission (FERC). This regulation defines the authorities and responsibilities delegated to the Northwestern Division District Commanders.

2. APPLICABILITY. This regulation is applicable to all Districts in the Northwestern Division for Corps owned water resource projects.

3. REQUIRED REFERENCES.

a. ER 1110-2-1454, Non-Federal Hydroelectric Power Development Under the Federal Power Act, 15 July 1983. Cited in paragraphs 4a, 4b, 4c(1), 5a(1), 5b(14) and 5b(16).

b. NWDR 1110-1-3, Engineering and Design, Modifications At Existing Corps Owned Civil Works Projects, 31 March 2003. Cited in paragraph 4c.

4. GENERAL.

a. Corps guidance and policy given in paragraph 7, ER 1110-2-1454 states,

(1) "Division commanders, having civil works responsibility, are delegated the authority for direct communication with the Washington office of the FERC for all matters

relating to FERC applications for preliminary permits, licenses, and headwater benefits data and reports.” and

(2) “The Division Commanders are responsible for adequacy of design, plans, and construction specification of licensed non-Federal hydropower facilities that will be an integral part of or that could affect the structural integrity or operation of a Corps project.”

b. Given the change in Corps design review and approval policy since ER 1110-2-1454 was published, the review, recommendation, and approval of the documents for non-Federal hydropower projects at Corps water resource projects in Northwestern Division is broken down into two phases as shown in Figures 1 and 2.

(1) The review of and recommendations on preliminary permit and license applications will be processed through the NWD commander as shown in Figure 1.

(2) The approval of design, plans, specifications, and memorandums of agreement (MOA) is delegated to the District Commander and will be coordinated directly with the licensee or the licensee’s agent as shown in Figure 2.

c. Modification to Corps projects will be coordinated in accordance with NWDR 1110-1-3 and this regulation. The District Commanders are delegated responsibility for:

(1) Coordination of all actions required by ER 1110-2-1454 and this document after the application for a license is approved/granted by the FERC.

(2) Review and approval of all design, plans, construction specifications and operation MOA for licensed non-Federal hydropower facilities at Corps of Engineers projects within their respective district Civil Works boundaries.

(3) Submission to all appropriate parties, to include NWD, a coordinated set of review comments – to include Division comments, documentation of the resolution of all review comments, and documentation showing final approval of all design, plans, and construction specifications.

5. RESPONSIBILITIES.

a. Northwestern Division:

(1) Phase I – Coordination of the review of and comment on of all preliminary permit applications and all license applications as per ER 1110-2-1454. The review and comment process will be as depicted in Figure 1.

(2) Perform reviews of licensee submittals to assure compliance with policy and criteria.

(3) Staff and coordinate a Division and District review and response to all applications directly with FERC. Resolve technical issues that cannot be resolved to the satisfaction of Division and District Corps reviewers and the licensee.

(4) Designate a point-of-contact for preliminary permit applications in the Water Management offices of the Division in Portland and Omaha.

(5) Designate a point-of-contact for license applications for non-Federal hydropower projects in the Engineering and Construction Division in Portland (CENWP-EC). The NWD Division offices involved will include Military & Technical Directorate, Technical Engineering and Construction (CENWD-MT-E), Real Estate (CENWD-MT-R); Civil Works & Management Directorate, Water Management (CENWD-CM-W-M or CENWD-CM-W-N), Operations (CENWD-CM-O), Program Management (CENWD-CM-CM), Planning and Policy (CENWD-CM-P); and the Office of Counsel (CENWD-OC).

b. Districts:

(1) Designate a point-of-contact to coordinate/manage the District level activities for non-Federal hydropower installations on Corps projects.

(2) Review and comment on all preliminary permit applications and license applications and provide these comments to the Division office. For applications on Corps projects assure installation does not compromise project safety or structural integrity.

(3) For Phase II activities the District Engineer will review and approve all design, construction, and operations related documents.

(4) Insure all appropriate District parties are involved in the review process.

(5) Establish a submittal and review schedule.

(6) Establish a budget for reviews, distribute funds, and monitor expenditures of Corps reviewers as appropriate to include Hydroelectric Design Center costs. These costs are to be reimbursed by the licensee, thus an accurate accounting of all effort during this phase is very critical.

(7) Distribute design analyses, plans, and specification submittals for review.

(8) Assemble and coordinate submittal review comments.

(9) Submit review comments to licensee with copies to all parties participating in the review process.

(10) Resolve comments with the licensee. Comments that cannot be resolved to the satisfaction of the Corps reviewers are to be submitted to the Division for resolution.

(11) Prepare all necessary correspondence to licensee and licensee design agent.

(12) Brief the Division at critical or major milestones.

(13) Develop the design and construction MOAs with the licensee. The District Commander approves the MOA. The MOA should require a Design Document Report (DDR) if there will be significant changes to the Corps project design or operation. Review and approve a DDR if required in the design and construction MOA. The construction MOA will include an appendix that addresses operation/management of the pool during construction. This appendix will be approved by the appropriate NWD Water Management Division (Portland or Omaha) through CENWD-MT-E prior to approval of the construction MOA by the District Commander.

(14) Monitor construction and contract modifications. Coordinate contract modifications with the Division when there is a material change to the approved license application. Coordinate construction oversight and site visits with the FERC Regional Engineer as per paragraph 2e, Appendix A, ER 1110-2-1454.

(15) Develop an operation and maintenance (O&M) MOA with the licensee. The O&M MOA will contain a water management appendix that will be approved by the appropriate NWD Water Management Division (Portland or Omaha) through CENWD-MT-E prior to approval of the O&M MOA by the District Commander. The water management appendix will address operations/management of the pool on a daily and long term basis.

(16) The District Commander, prior to approving the licensee's detailed design will consult with and solicit technical review comments from the Corps' Hydroelectric Design Center, CENWP-HDC in accordance with paragraph 15c, ER 1110-2-1454.

FOR THE COMMANDER:



CLIFTON P. JACKSON, JR.
Executive Assistant

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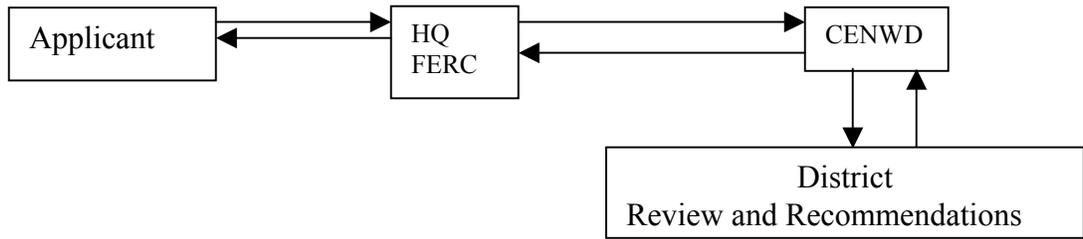


Figure 1 - Phase I - Preliminary Permit and License Application Review and Recommendation Process

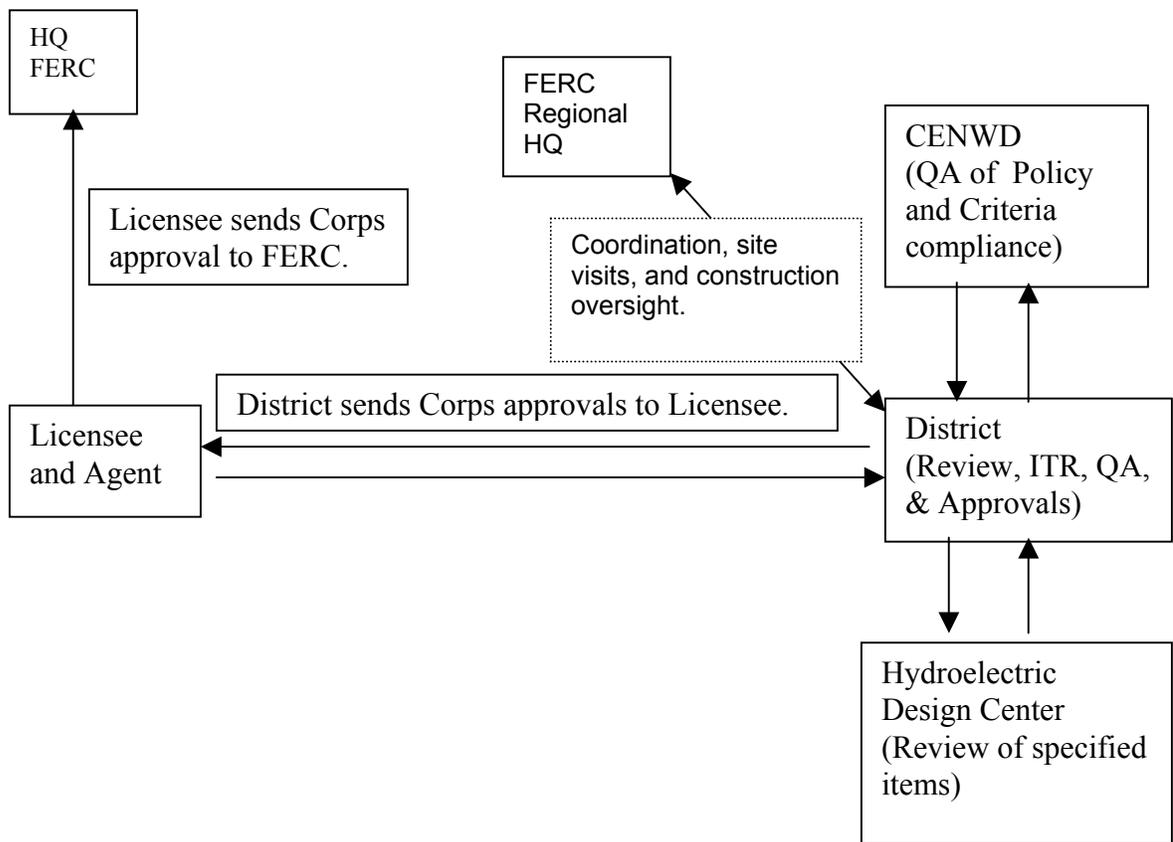


Figure 2 - Phase II. Project Coordination and Document Approval for Construction of Non-Federal Hydropower at a Corps Project