



Please stand by. The FERC Small Hydro Webinar will start momentarily.

January 25, 2012



Federal Energy Regulatory Commission

# Small/Low-Impact Hydropower in the Northeast Webinar

January 25, 2012



# Webinar Contents

1. Ground Rules
2. Contact Information
3. Introductions
4. Overview of Exemptions
5. 5 MW Exemptions
6. Applying for an Exemption
7. Preparing an Application
8. Legal Issues
9. Licensing Small Projects
10. Webinar Questions



# Ground Rules

If you have questions during the webinar:

- Your phone will be muted during the presentation; you will not be able to verbally comment or ask questions during the webinar.
- Send your questions to the host using the chat box in the lower right corner of your screen.
- Because we may not be able to answer all of your questions due to time limits, you can also submit questions to the small hydro web site after the webinar and you will receive a response.



# Contact Information

Small/Low Impact Hydropower Hotline:

Telephone: **1-866-914-2849**

or

E-mail: [smallhydro@ferc.gov](mailto:smallhydro@ferc.gov)



# Introductions



Shana Murray



Katie Liberty



Cat Giljohann



# Introductions



Jeff Browning



Nick Palso



John Baummer



Samantha Davidson



# Goals

- Ensure adequate consultation
- Reduce deficiencies and additional information requests
- Enable expedited processing





# Federal Energy Regulatory Commission

## Overview of Exemptions

# FERC's Hydropower Jurisdiction

- Located on a navigable waterway;
- Occupies lands of the United States;
- Uses surplus water from a federal dam; OR
- Located on Commerce clause waterway, post-1935 construction, and affects interstate or foreign commerce.

# Exemptions from Part I of the FPA

- An exemption is not a form of deregulation, it is a statutory provision that allows an applicant to be exempt from some or all of Part I of the Federal Power Act.

# Two types of FERC Exemptions

- Conduit exemptions  
Section 30 of the FPA and  
18 C.F.R. 4.90-96
- 5-MW exemptions  
Sections 405 and 408 of PURPA and  
18 C.F.R. 4.101-108



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## **5-Megawatt Exemptions**

# What is a 5 MW Exemption?

- Exemptions have no expiration
- 5 megawatts or less
- Located at an existing dam or a natural water feature
- Subject to mandatory fish and wildlife conditions (section 30(c) conditions)
- Require NEPA analysis
- Boundary must enclose dam and reservoir
- Applicant must possess all real property rights at time of filing unless on federal land

# Two Forms of 5 MW Exemptions

- At an existing dam
- Or at a natural water feature



# Qualifications for a 5 MW Exemption at an Existing Dam

- Commission has clarified a 5-MW exemption as follows:

A project where a powerhouse is located no further than 500 feet from the existing project dam and which would derive a substantial portion of head from the dam.

See Troy Rehearing P-13381-002 issued May 19, 2011.



# Qualifications for a 5 MW Exemption at a Natural Water Feature

- Use a natural water feature the project would have to utilize a natural water feature, such as a natural lake, waterfall, or the gradient of a natural stream, without the need for a dam or man-made impoundment
- Cannot retain water behind any structure for the purpose of a storage and release operation.



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## **Applying for an Exemption**

# Before You Get Started

- Things you can do to ease into the process:
  - **Refer to the FERC Small Hydro/Low-Impact website at [www.ferc.gov](http://www.ferc.gov)**
  - Review the exemption application process
  - Call FERC

# www.ferc.gov

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http://www.ferc.gov/

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**ORDER NO. 1000 - TRANSMISSION PLANNING AND COST ALLOCATION**  
Order No. 1000 enhances the ability of the transmission grid to support wholesale power markets and ensure transmission services are provided at just and reasonable rates for the benefit of consumers. [READ MORE](#)

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**HYDROPOWER**  
LICENSING, COMPLIANCE, DAM SAFETY, HYDROKINETICS

**NATURAL GAS**  
PIPELINE TRANSPORTATION RATES AND SITING, STORAGE, LNG

**OIL**  
TRANSPORTATION RATES

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**COMMISSION MEETINGS**  
**January 19, 2012: Decisions | Meeting Summaries** [PDF](#) | [Event Details](#)

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**January 19, 2012 - FERC Eliminates Duplicative Reporting Requirements for Gas Storage Providers** News Release | Order No. 757 [PDF](#)

**January 13, 2012 - FERC staff issue Energy Infrastructure Update for December 2011 Report** [PDF](#)

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**TOP INITIATIVES**

- Smart Grid
- Demand Response
- Integration of Renewables
- Order No. 1000 - Transmission Planning and Cost Allocation

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### SMALL/LOW IMPACT HYDROPOWER

Small/low-impact hydropower facilities can be developed at existing, non-powered dams and within existing water infrastructure like water supply pipelines, tunnels, flumes, and aqueducts.

**READ MORE**

### ELECTRIC

TRANSMISSION RATES, RELIABILITY, SMART GRID, SITING

### HYDROPOWER

LICENSING, COMPLIANCE, OAH SAFETY, HYDROKINETICS

### NATURAL GAS

PIPELINE TRANSPORTATION RATES AND SITING, STORAGE, LNG

### OIL

TRANSPORTATION RATES

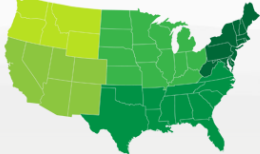
QUICK LINKS  
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# www.ferc.gov

FERC: Hydropower - Licensing - Small/Low Impact Hydropower Program - Windows Internet Explorer  
http://www.ferc.gov/industries/hydropower/gen-info/licensing/small-low-impact.asp

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Industries >> **Hydropower** >> General Information >> **Licensing**

**Small/Low Impact Hydropower Program**  TEXT SIZE

January 25, 2012 - Small/Low-Impact Hydropower Webinar [Event Details](#)



Under the Federal Power Act (FPA), FERC regulates the nation's non-federal hydropower resources. FERC issues three types of development authorizations: conduit exemptions, 5-megawatt (MW) exemptions, and licenses. This website explains how to obtain Commission authorization to construct and operate small/low-impact projects while assuring adequate protection of environmental resources. This program is intended for small projects that would result in minor environmental effects (e.g., projects that involve little change to water flow and use and are unlikely to affect threatened and endangered species).

| Getting Started  | Prepare an Application  | Expedite your Project   |
|--|---|---|
| <ul style="list-style-type: none"><li>○ FERC Authorization</li><li>○ Exemption or License</li><li>○ Information About Projects</li><li>○ Nearby</li><li>○ Off-Limits Sites</li><li>○ Related Websites</li><li>○ Dam Safety and Small/Low Impact Hydropower Development</li></ul> | <ul style="list-style-type: none"><li>○ Process Overview<ul style="list-style-type: none"><li>■ File Preliminary Information</li><li>■ Consult Stakeholders</li><li>■ Gather Information</li><li>■ Prepare Application</li></ul></li><li>○ Tips to Develop a Complete Application</li></ul> | <ul style="list-style-type: none"><li>○ What You Can Do</li><li>○ What FERC Can Do</li><li>○ Projects Issued in Less Than 1 Year <a href="#">K33</a> updated 10/01/11</li></ul> |

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CONTACT  
Telephone: 1-866-914-2849  
Email: [smallhydro@ferc.gov](mailto:smallhydro@ferc.gov)

QUICK LINKS

- June 22, 2011 - Exemptions and Licenses Webinar [K29](#) | [Event Details](#)
- July 29, 2010 - Jeff Wright's testimony on Small Hydropower: Prospects of Expanding Low-Impact and Affordable Hydropower Testimony [K28](#)
- Tri-fold Brochure [K27](#)
- MOU with State of Colorado [K26](#)

2 of 24 - Clipboard  
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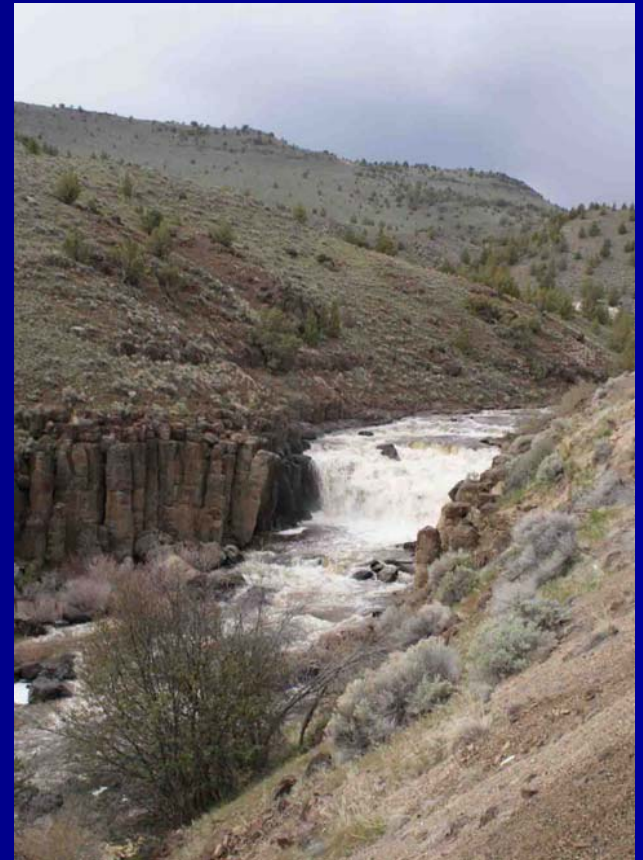
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# Before You Get Started

- Things you can do to ease into the process:
  - Refer to the FERC Small Hydro/Low-Impact website at [www.ferc.gov](http://www.ferc.gov)
  - **Review the exemption application process**
  - Call FERC

# Stages of Prefiling

- File Preliminary Information
- Consult Stakeholders
- Gather Information
- Prepare License Application





# File Preliminary Information

- Project description (location, number/type of turbine, mode of operation, hydraulic capacity etc...).
- Environmental Resources
- Effects of the proposed project on each resource and any proposed protection/mitigation measures.
- Maps and Drawings.

# Consultation

- Identify all relevant federal and state agencies, Indian tribes, non-governmental organizations, and interested parties of your proposal
- Consultation provides stakeholders opportunity to voice concerns or request further information
- Ensures compliance with other federal statutes  
(Endangered Species Act, National Historic Preservation Act, and Magnuson-Stevens Act (Essential Fish Habitat))
- Conduct a joint meeting among stakeholders

# Consult Stakeholders

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Industry Activities  
General Information  
Natural Gas  
Liquefied Natural Gas (LNG)  
Oil

Industries >> Hydropower >> Environment >> Initial Consultation Contact List

### Initial Consultation Contact List

Pursuant to 18 CFR 4.38 and 5.1(d), and 16.8, applicants seeking an exemption, original license, new license, or an amendment to a license for a hydropower project must consult with relevant Federal, State, and interstate resource agencies, Indian tribes, and non-governmental agencies. FERC has created this list for applicants to assist in their consultation efforts. This list is not exhaustive and applicants should be aware of and include other interested parties during consultation.

**Search the Consultation Contacts:**  
\* Select a State here or from the drop down on the right side:

Search Contacts:  
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\* Select at least one agency  
 All Agencies  
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 State Agency  
 Regional  
 NGOs  
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Address  
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5 of 24 - Clipboard  
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# Gather Information

- Applicants may need to gather further information to fill information gaps
- Study requests due 60 days from date of joint meeting.
- Any disagreements on needed studies referred to the Commission for resolution.
- Address any dispute early in pre-filing to avoid delays in processing the application

# Before You Get Started

- Things you can do to ease into the process:
  - Refer to the FERC Small Hydro/Low-Impact website at [www.ferc.gov](http://www.ferc.gov)
  - Review the exemption application process
  - **Call FERC**



## 5 MW Questions

Please submit questions to the host using the chat box icon in the lower right hand corner of your screen.



# Federal Energy Regulatory Commission

## Preparing an Application

# Preparing an Application

- Include time in the project schedule for reviewing any comments received on the Initial Consultation Document (ICD) and time for addressing those comments in the application which is filed for Commission approval.





# Document Consultation and Study Results

- Document consultation, including audio recordings or transcripts, and letters received from the joint public meeting (18 C.F.R. 4.38(b)).
  - *Follow proper noticing of public meetings.*
- Complete all necessary studies and file the study report(s), including the results from all studies, with the application (18 C.F.R. 4.38(c)).

# 5-MW Exemption Applications Should Document:

- Section 30(c) Fees of the Federal Power Act

*Ensure the application includes state and federal fish and wildlife agency estimates of costs to set mandatory terms and conditions or documentation indicating that no cost estimates were received.*

- Property Rights
- Project Qualifications



# Complete and Consistent Project Description

- Include a detailed description of all existing and proposed project facilities (i.e., dimensions and material composition) (18 C.F.R. 4.61(c))
- Include the transmission line to the interconnection with the regional distribution grid
- Confirm that the project facilities described in Exhibit A (description of project and project operation) and shown on the Exhibit G project map are consistent (i.e., project dimensions) and include dates for completing any proposed construction activities

# Complete Exhibit E (Environmental Report)

- Ensure that Exhibit E (18 CFR Sec. 4.61(d) and 4.107(e)) includes a complete description of:
  - the existing environment
  - potential effects to environmental resources
  - proposed mitigation measures



# Complete Exhibit F Drawings

- Consist of general design drawings of the principal project works and must show (18 CFR Sec. 4.41(g)):
  - Plans (overhead view)
  - Elevations (front view)
    - Impoundment elevation, dam height, tailrace elevation
  - Profiles (side view)
  - Sections



# Complete Exhibit G Maps

Exhibit G Maps must:

- Be stamped by a registered land surveyor
- Include three known reference points
- Clearly show and label the project boundary line enclosing all existing proposed project facilities
- Show and label all property ownership (i.e., federal lands, applicant owned land, and adjacent property ownership)
- Allow Commission staff to determine the location of the project and the extent of land area impacted by the project works

Details of the contents of the application and procedures to follow can be found on the website: [www.ferc.gov](http://www.ferc.gov)

The screenshot displays the FERC website's page for the Small/Low Impact Hydropower Program. The browser address bar shows the URL: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/small-low-impact.asp>. The page features the FERC logo and navigation links such as 'ABOUT', 'MEDIA', 'DOCUMENTS & FILINGS', 'INDUSTRIES', 'LEGAL RESOURCES', 'MARKET OVERSIGHT', 'ENFORCEMENT', 'CAREERS', 'CONTACT US', and 'FOR CITIZENS'. A left-hand navigation menu lists various categories including 'Electric', 'Hydropower', 'Annual Charges', 'Dam Safety and Inspections', 'Environment', 'Industry Activities', 'General Information', 'Licensing', 'Compliance and Administration', 'Comprehensive Plans', 'Handbooks', 'Guidelines', 'Workshops', 'Regulation', 'Natural Gas', and 'Oil'. The main content area is titled 'Small/Low Impact Hydropower Program' and includes a sub-section for 'Licensing'. A red arrow points to the 'Prepare an Application' section, which contains a list of steps: 'Process Overview', 'File Preliminary Information', 'Consult Stakeholders', 'Gather Information', 'Prepare Application', and 'Tips to Develop a Complete Application'. Other sections include 'Getting Started' and 'Expedite your Project'. A 'CONTACT' box on the right provides telephone and email information, and a 'QUICK LINKS' box lists recent events and publications. The page footer includes 'Updated: December 23, 2011' and various policy links. The Windows taskbar at the bottom shows the system tray with the time 10:02 AM and a clipboard notification for 1 of 24 items collected.

# Application Templates

FERC: Small/Low-Impact Hydropower Projects: Prepare Application - Windows Internet Explorer  
http://www.ferc.gov/industries/hydropower/gen-info/licensing/small-low-impact/prepare-application/process-overview/application-preparation.asp

FERC: Small/Low-Impact Hydropower Projects: P...

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**Industries >> Hydropower >> General Information >> Licensing**

### Small/Low-Impact Hydropower Projects

Prepare Application (4.30) [ ]

Applicants should include time in their schedule for reviewing any comments received on the Initial Consultation Document (ICD) or Preliminary Application Document (PAD) and for addressing those comments in the application which is filed for Commission approval.

For an application template see: [Conduit Exemption Application Template](#) [ ] [5-MW Exemption Application Template](#) [ ] or [License Application Template](#)

All applications for a hydroelectric project require maps and drawings. Commission staff must be able to determine: a) the location of the project and the extent of land area impacted by the project works, and b) the proposed design of all power producing structures and equipment. The extent of maps and drawings is determined by the complexity of the project. All exhibit drawings must be of a quality and contain sufficient detail for Commission staff to review and make decisions regarding project impacts to the surrounding environment.

For instructions how to file exhibit drawings, see: [Preparing Exhibit Drawings for a License or Exemption Application](#)

The applicant must serve on every resource agency, affected tribe, and stakeholder consulted copies of:

- The application;
- Any deficiency corrections, revisions, supplement, response to additional information requests, or amendments to the application; and
- Any written correspondence from the Commission asking the applicant to correct a deficiency or provide additional information.

The applicant must certify that copies of the final application have been mailed to these agencies and stakeholders. The applicant must also file the final application with the Commission's Secretary and a copy to the appropriate [Regional Director](#).

Applications may be filed electronically via the Internet. See [18 C.F.R. 385.2001\(a\)\(1\)\(iii\)](#) [ ] and the instructions on the Commission's website under the [eFiling](#) link. For assistance, please contact FERC Online Support: [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov); call toll-free at (866) 208-3676; or, for TTY, contact (202) 502-8659. Although the Commission strongly encourages [eFiling](#) of documents, documents may also be paper-filed. To paper-file, mail an original and 7 copies to:

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**CONTACT**  
Telephone: 1-866-914-2849  
Email: [smallhydro@ferc.gov](mailto:smallhydro@ferc.gov)

**Small/Low-Impact Hydropower Projects**

**Main Page**

- FERC Authorization
- Exemption or License
- Information About Projects Nearby
- Oil-Limits Sites
- Related Websites
- Dam Safety and Small/Low Impact Hydropower Development

**Prepare an Application**

- Process Overview
  - File Preliminary Information
  - Consult Stakeholders
  - Gather Information
  - Prepare Application
- Tips to Develop a Complete Application

**Expedite Your Project**

- What Can You Do
- What Can FERC Do
- Projects Issued in Less Than 1 Year [ ]

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# Preparing an Application

Please submit questions to the host using the chat box icon in the lower right hand corner of your screen.



# Federal Energy Regulatory Commission

## Legal Issues

## Section 30(c) Conditions

- All exemptions are subject to mandatory fish and wildlife conditions as set out in section 30(c) of the FPA.
- Conditions can be filed by: FWS, NMFS, and state fish and wildlife agencies.

# Section 30(c) Fees

- Section 4.302 of the regulations requires an exemption application to contain a fee or bond and a statement of the cost estimate that a Federal or state fish and wildlife agency will incur to set mandatory terms and conditions under section 30(c) of the FPA.

# Project Boundary

- Must include all facilities necessary for project operation, e.g.:
  - Impoundment
  - Dam
  - Intake Structures
  - Penstock
  - Powerhouse
  - Turbine
  - Tailrace
  - Transmission line

# Property Rights – on private lands

- Proof of real property rights includes:
  - Deed
  - Lease
  - Easement
  - Right-of-way
- When you apply, you must have ALL of the real property rights for ALL of your project features.

# Property Rights – on private lands

- To clarify that you have the rights to all of your project features:
  - (1) highlight the pertinent parts of your property rights documents; AND
  - (2) show your property boundary on your project boundary map (i.e. the Exhibit G).

## Property Rights – on federal lands

- 5-MW exemptions can be located on federal lands.
- The exemptee will have one year after the exemption is issued to get the rights to occupy federal lands from the federal land management agency (i.e. a special use permit from Forest Service).





# Property Rights - Example

Grantor A to Grantee B

Warranty Deed V.31 P.138, Relevant Language

"... to the middle of the Natchaug River, thence North Easterly by said river to the dam..."

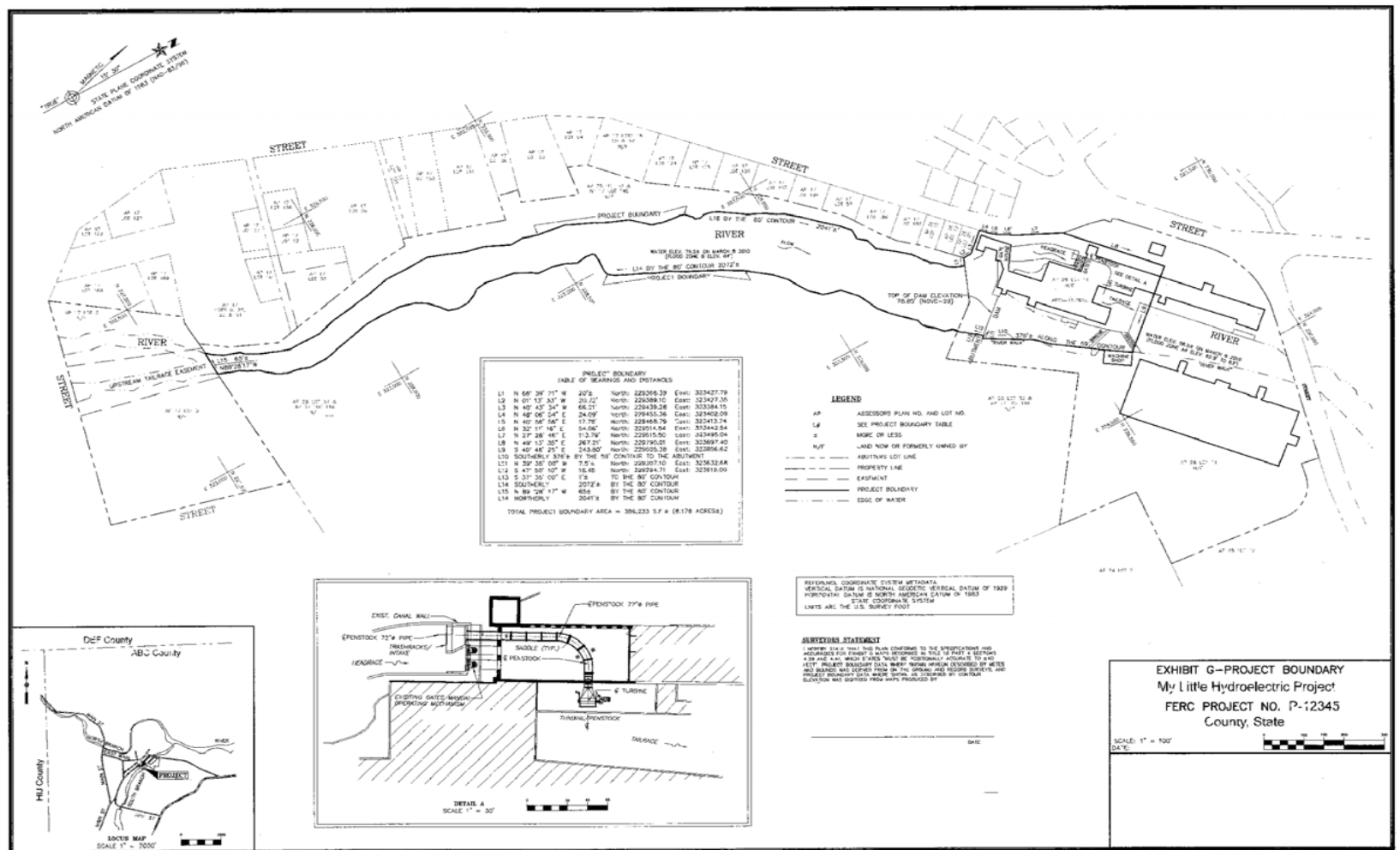
"all right and title to ... pass and repass to and from said dam on both banks of said river for the purpose of keeping said dam in repair ..."

## Property Rights - Example

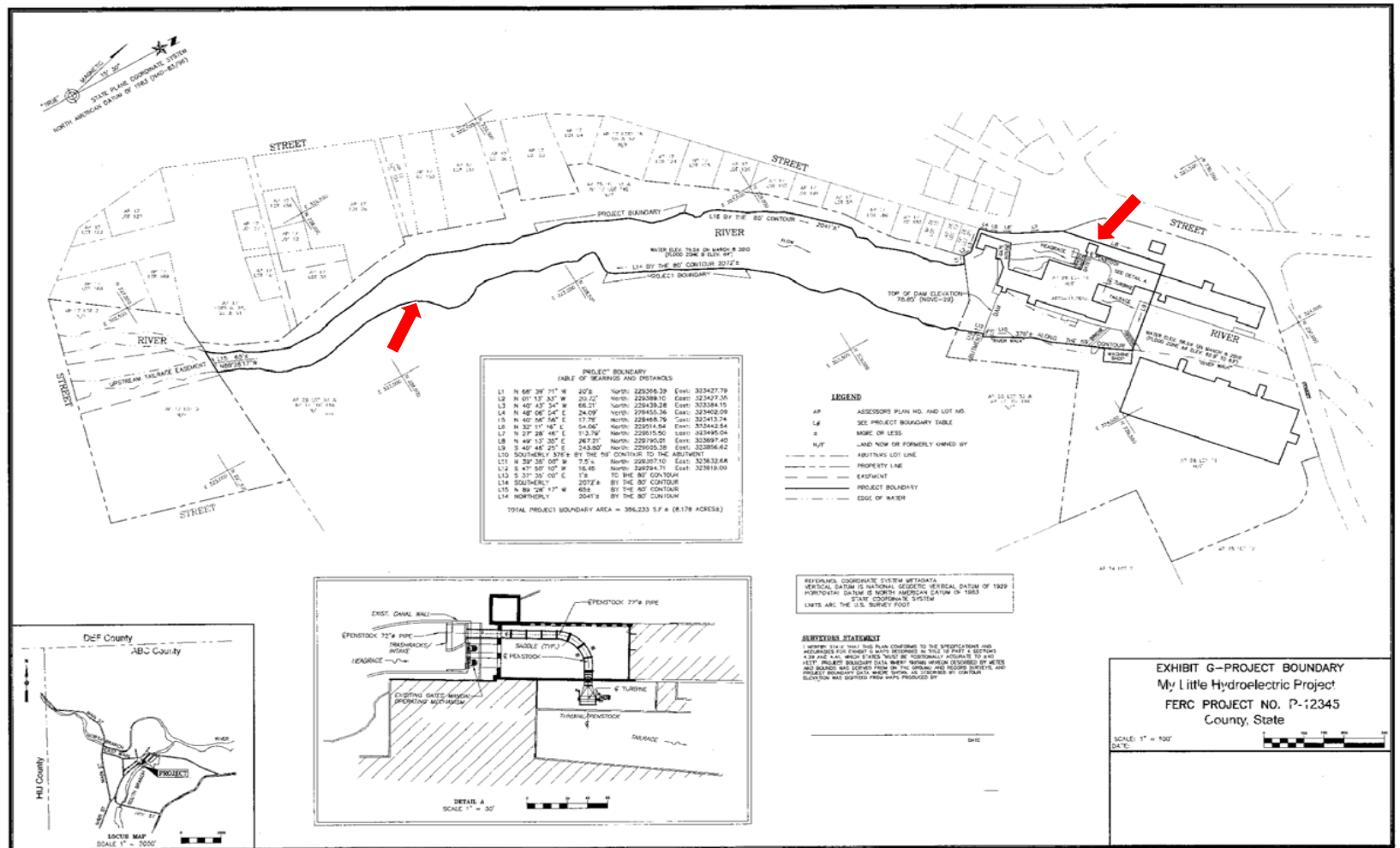
“Beginning at a concrete monument located at a southerly line of X Road, which point marks the northwesterly corner of the land now or formerly of the United States and the northeasterly corner of the herein described parcel. The line runs:

THENCE S 08° - 11" -20"E, a distance of 175.10 feet to a concrete monument . . .”

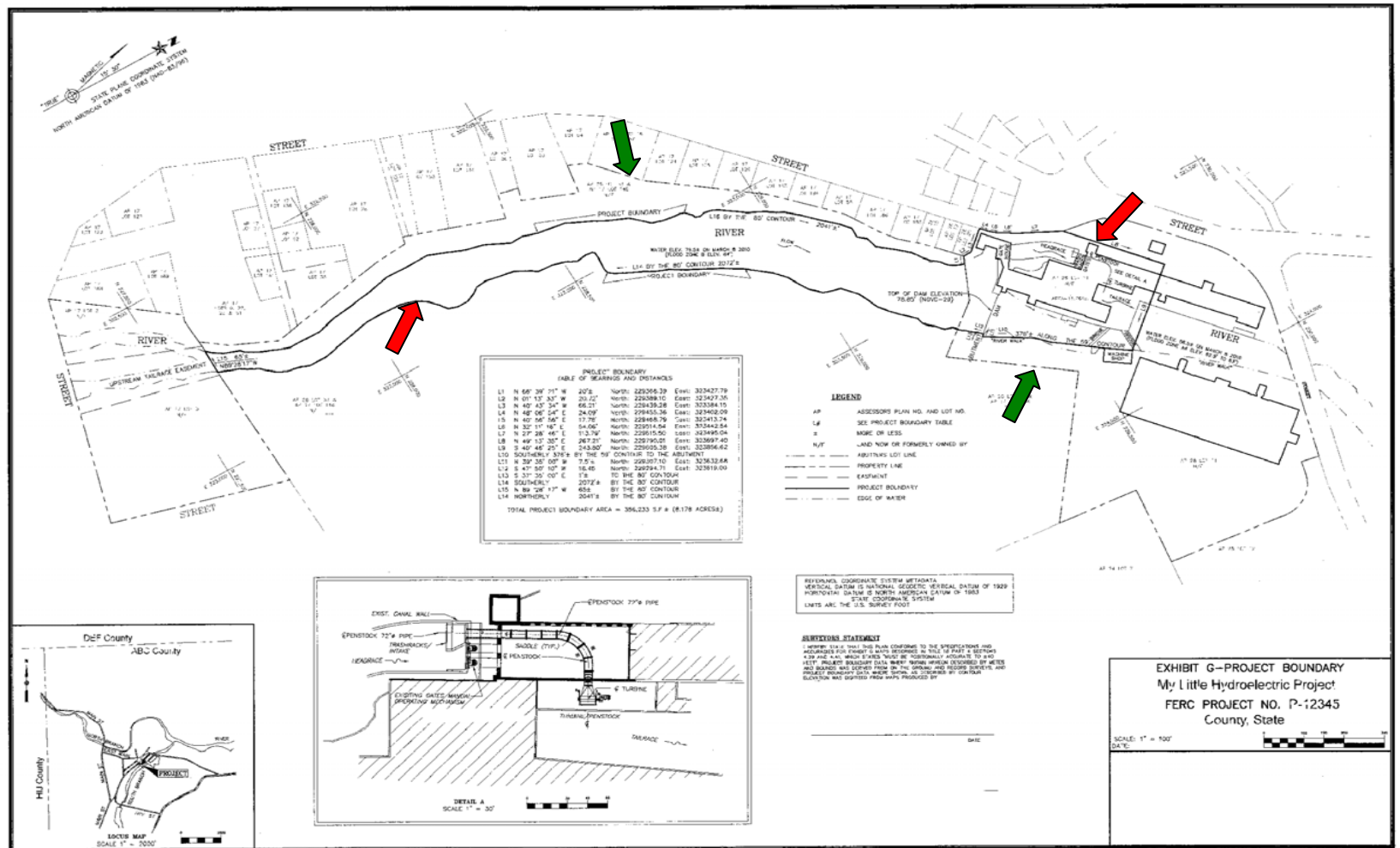
# Property Rights - Example



# Property Rights - Example



# Property Rights - Example

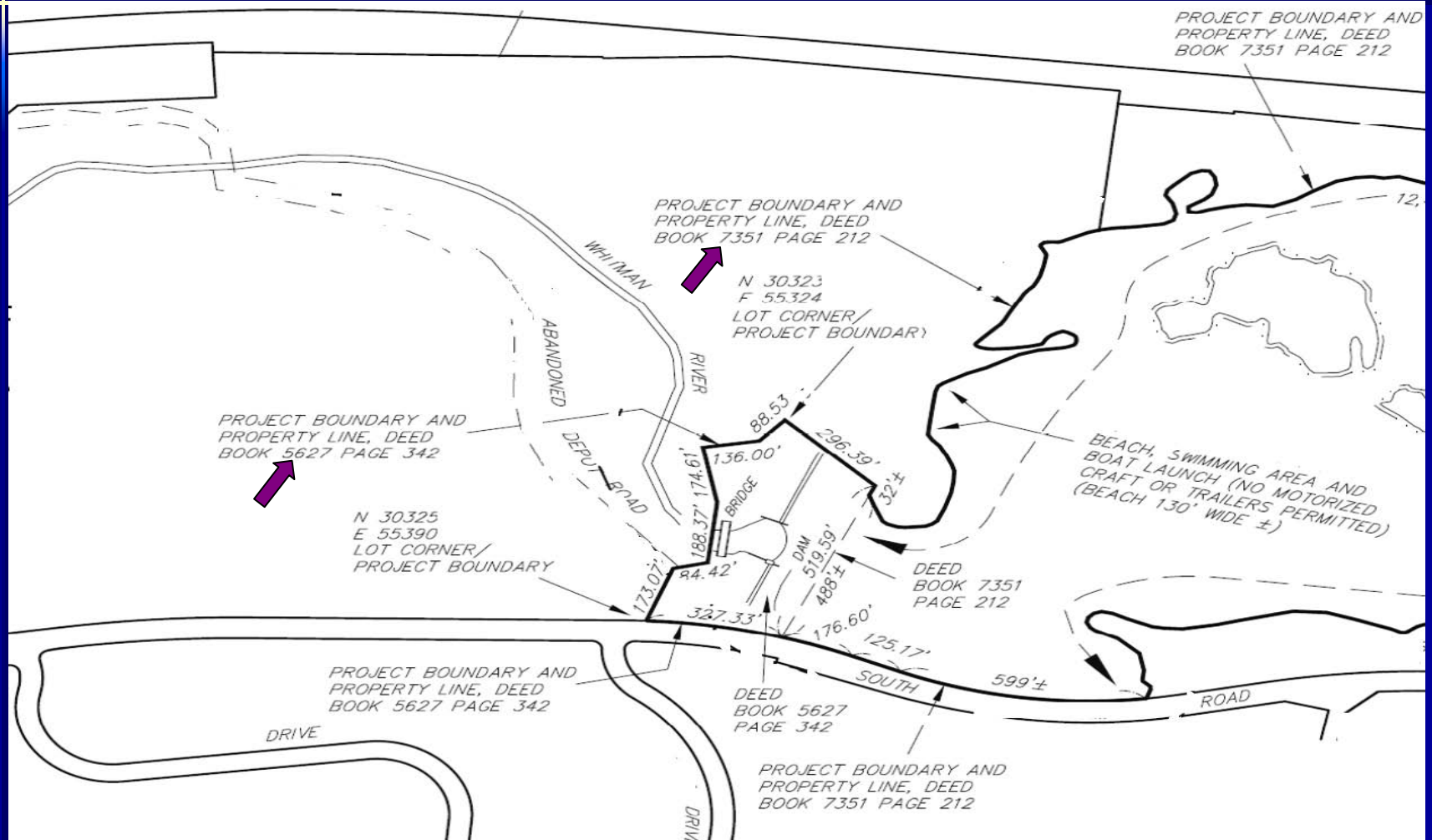








# Property Rights - Example



# Common Issues with Property Rights

- The name on the property document must be the same name as the applicant.
- Include documentation of Encumbrances:
  - Easements held by other entities
  - Conservation Easements
  - Designated wetlands

## *Linweave Clause*

- “Notwithstanding any provision contained herein, the exemptee has the right to perform any and all acts required by order of the Commission, without the prior approval of any party to this document.”
- Applies to leases, easements, or right-of-ways requiring the exemptees approval from an entity other than the Commission.

# Coastal Zone Management Act (CZMA)

- Requires any federal activities to be consistent with the state's federally approved Coastal Zone Management Program.
- Applicant must seek CZMA certification from the state.
- The Commission cannot approve the exemption, if the state does not concur with the applicant's certification.

# Coastal Zone Management Act (CZMA)

| State         | Office  |
|---------------|---|
| Connecticut   | Department of Environmental Protection's Office of Long Island Sound Programs |
| Maine         | State Planning Office   |
| Massachusetts | Office of Environmental Affairs' Office of Coastal Zone Management            |
| New Hampshire | Office of Environmental Management  |
| Rhode Island  | Coastal Resource Management Council   |



# Legal Questions

Please submit questions to the host using the chat box icon in the lower right hand corner of your screen.



# Federal Energy Regulatory Commission

## Licensing Small Projects

# What if my Application does not Qualify for an Exemption?

- Most applicants are able to transition from an exemption application to a license application without difficulty.

\*Applicants may need to include additional information to their exemption application in order to fulfill information requirements for a license application.



# Applying for a License

- Most of the same procedural steps apply to both traditional license and exemption applications
- Stages of Prefiling:
  - File Preliminary Information
  - Consult Stakeholders
  - Gather Information
  - Prepare a License Application



# Licensing Processes

- The Integrated Licensing Process (ILP) is the Commission's default process for filing an application for an original, new, or subsequent license
- The Traditional Licensing Process (TLP) requires Commission approval



# Who Should Request the TLP?

- Sites where there will likely be few environmental concerns
- Sufficient information is provided in the application
- Agency cooperation

# Traditional Licensing Process

## *Pre-filing*

**File Notice of Intent/  
Pre-Application  
Document  
Request Use of TLP**

**FERC Decision on  
TLP**

**Public  
Meeting**

**Consultation on  
Studies Needed for  
Development of  
Application**

**Conduct  
Studies**

**File License  
Application**

# Traditional Licensing Process

## *Post-filing*

**Application  
Filed**

**Notice of Filing**

**NEPA Scoping**

**Ready for  
Environmental  
Assessment  
Notice**



**Issue  
Environmental  
Assessment  
(EA)**

**Resolve Issues  
and Respond to  
Comments**

**Issue  
Final EA**

**License  
Order**





# Process Comparison

|                              | <b>Exemption</b>  | <b>TLP</b>   |
|------------------------------|---|--|
| <b>Installed Capacity</b>    | 5 MW or less  | Unlimited  |
| <b>Location Limitations</b>  | No Federal dams; located at existing dam or water feature         | No restrictions  |
| <b>Ownership Limitations</b> | Must have all real property rights, or an option to obtain rights | Proof of ownership not required; eminent domain may be conferred |
| <b>License Term Limits</b>   | In perpetuity   | 30-50 years  |

# Exemption or a License?

- Things you can do if you're still not sure if your project qualifies as an exemption:
  - Call FERC
  - Send FERC your project proposal
  - Send FERC a draft of your application for review



# Webinar Questions

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If you have any questions or comments related to the web site, applications, templates, or process call:

**Telephone: 1-866-914-2849**

or

**E-mail: [smallhydro@ferc.gov](mailto:smallhydro@ferc.gov)**