

**FSM 2700 - SPECIAL USES MANAGEMENT
CHAPTER 2770 - FEDERAL POWER ACT PROJECTS**

2770.4 - Responsibility

1. Deputy Chief, National Forest System. It is the responsibility of the Deputy Chief for National Forest System to:

- a. Sign reports and correspondence that make recommendations for approval or denial of projects proposed in designated wilderness areas or other special areas which require Presidential approval.
- b. Approve for forwarding to the Department those recommendations that the Forest Service considers to be in the public interest.

2. Director of Lands, Washington Office. It is the responsibility of the Director of Lands, Washington Office, to:

- a. Sign reports and correspondence to the Federal Energy Regulatory Commission (FERC) relating to activities under the Federal Power Act.
- b. Represent the Department of Agriculture in contacts with FERC at the Washington level in matters relating to hydropower projects (FSM 1043).
- c. Coordinate the review of matters pertaining to hydropower projects with other agencies of the Department.
- d. Schedule the assignment of Forest Service personnel as witnesses in FERC hearings, secure Office of the General Counsel review, and approve testimony prior to its being filed with FERC.

3. Regional Forester. It is the responsibility of the Regional Forester to:

- a. Sign reports and correspondence with the FERC on behalf of the Department of Agriculture relating to licensing activities under the Federal Power Act, as amended, including reports under section 4(e) of the Federal Power Act. This authority may not be delegated.
- b. Establish Region-wide guidelines for analysis and coordination of hydropower projects on National Forest System lands.
- c. Coordinate with FERC staff as necessary.
- d. Maintain information base for use in managing Federal Power Act (FPA) project activities.

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- e. Coordinate review of applications, field investigations, and preparation of draft 4(e) reports for FERC licenses.
- f. Respond directly to FERC in behalf of the Department of Agriculture on applications for preliminary permits and exemptions.
- g. Establish procedures to contact licensees or special use holders at least 5 years prior to license or special use expiration to ascertain their intentions concerning continuation of the project.
- h. Prepare, or assist FERC in preparing, for approval by the Deputy Chief, National Forest System, the environmental impact statement necessary to recommend Presidential action on projects proposed in wilderness areas.
- i. Sign and transmit determinations under section 7 of the Wild and Scenic Rivers Act for hydropower projects. This authority may not be delegated.
- j. As appropriate, authorize Forest Supervisors to correspond directly with FERC on all administrative and construction matters during construction and operation of a project.
- k. Sign special use authorizations for hydropower projects after the project has been licensed or exempted from licensing by FERC. The authority to sign special use permits for these projects may be redelegated to the Forest Supervisor, but may not be redelegated by the Forest Supervisor.

2771 - SPECIAL USE AUTHORIZATION

For additional direction on special use authorizations, see FSH 2709.11 and FSH 2709.15, chapter 60.

The Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1761-1771) authorizes the Forest Service to issue special use authorizations for hydropower projects located on National Forest System lands. However, the Energy Policy Act of October 24, 1992 (43 U.S.C. 1761(d)) amended FLPMA by providing that a special use authorization is not required for any existing project, whether licensed or exempted, that was not subject to an authorization under FLPMA prior to October 24, 1992. Many projects in existence on October 24, 1992, did not have FLPMA special use authorizations and, therefore, are exempt from a Forest Service special use authorization requirement in the future. A special use authorization is required for new hydropower projects proposed after October 24, 1992.