

Issuing a nonpower license, therefore, is not a realistic alternative in these circumstances.

2. Denial of License and Decommissioning the Project

Project decommissioning could be accomplished with or without removing the project facilities. Either alternative would involve denial of the license application and surrender or termination of the existing license. In both cases, the energy that the project would generate would be lost, and consequently Parowan's need for the project's power would not be satisfied. Additionally, no participant has suggested decommissioning. For these reasons, we have no basis for recommending decommissioning of the project with or without removing the project facilities.

IV. Consultation and Compliance

A. Agency Consultation

The Commission's regulations (18 CFR Section 4.38) require applicants to consult with the appropriate resource agencies before filing an application for a license. This consultation is the first step in complying with the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, and other federal statutes. Pre-filing consultation must be complete and documented according to the Commission's regulations.

When the Commission issues a notice that the application is ready for environmental analysis, formal comments may be submitted by concerned entities in accordance with section 4.34(b) of the Commission's regulations under the FPA. The comments provided by concerned entities are made part of the record and are considered during review of the proposed project.

On May 8, 2003, the Commission issued a public notice indicating that the project was ready for environmental analysis, and soliciting motions to intervene, comments, terms and conditions, and prescriptions. We received one letter from the U.S. Department of the Interior's Fish and Wildlife Service (FWS) filed July 1, 2003, in response to that notice. FWS recommends that Parowan monitor and remove any noxious and undesirable plants after ground-disturbing activities. As discussed in Section V.2 of this draft EA, Parowan has agreed to this recommendation making the recommendation a part of its proposed project.

B. Interventions

In addition to filing comments, organizations and individuals may petition to intervene and become a party to the licensing proceedings. There are no interventions in this proceeding.

C. Scoping

We issued Scoping Document 1 (SD1) on March 4, 2003, to enable appropriate federal, state, and local resource agencies, Indian tribes, other nongovernmental organizations, and individuals to participate in the identification of issues, concerns, and opportunities associated with this proposed action. Specifically, we requested the entities to forward written information that they believed would assist the Commission in conducting an accurate and thorough analysis of the site-specific, as well as the cumulative effects of licensing the proposed project.

On April 7, 2003, the FWS filed comments recommending that we address the effects of the project on terrestrial resources and make two changes to the endangered species list. We have addressed the FWS comments in the draft EA. Also, after we received SD1 comments, we issued a letter saying we would not issue an SD2 but would use SD1 as a basis for the environmental assessment taking into account the recommendations of the FWS.

D. Water Quality Certification

Under Section 401(a) of the Clean Water Act,¹ the Commission may not issue a license for a hydroelectric project unless the state certifying agency has either issued water quality certification for the project or has waived certification by failing to act on a request for certification within a reasonable period of time, not to exceed 1 year.²

On April 13, 2001, Parowan applied to the Utah State Department of Environmental Quality (DEQ) for water quality certification (WQC) for the project. DEQ received the request on April 16, 2001. On June 17, 2002, DEQ granted certification to Parowan for the project. The WQC contains no conditions.

¹ 33 U.S.C. "1341(a)(1).

² Section 401(a)(1) requires an applicant for a federal license or permit to conduct any activity that may result in any discharge into navigable waters to obtain from the state in which the discharge originates certification that any such discharge would comply with applicable water quality standards.

V. Environmental Analysis

A. General Description of Center Creek Basin

The project powerhouse is located near the south edge of town. The diversion structure is high in the mountains originating at the confluence of Center Creek (Parowan Creek) and Bowrey Creek. Parowan Creek upstream of the project area flows largely through the Dixie National Forest.

The climate in the lower part of the Parowan Valley is semi-arid, with the mountains having somewhat cooler temperatures. The average annual precipitation recorded at Parowan is 12.4 inches/year. Record high and low temperatures are 101 and minus 23 degrees Fahrenheit, respectively.

The canyons have highly varied geologic formations with multicolored layers of rock, highly complex cliff formations, talus slopes, and towering spirals. Varied forms of shape, color, and complex patterns of rock and vegetation make the canyons in which the project is located, highly scenic. Natural vegetation is sparse in Parowan Valley but begins to increase gradually as increased elevation provides cooler temperatures and more precipitation. These higher and cooler canyons support different types and more abundant vegetation than is found in the arid foothills. East of the project, within the Dixie National Forest, mountain peaks range from 7,500 to 10,000 feet.

B. Cumulative Effects

According to the Council on Environmental Quality's regulations for implementing NEPA (§§ 1508.7), an action may cause cumulative impacts on the environment if its impacts overlap in time and/or space with the impacts of other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time, including hydropower and other land and water development activities.

Based on staff's review of Parowan's license application, and agency and public comments, we have determined that there are no cumulative impacts as a result of continued operation of the project. No other development activities exist or are anticipated, to the extent that we know, in the project area that, in conjunction with the continued operation of the project, would cumulatively affect resources within the project area.