

President's Message

Thanks to all of you for your hard work in achieving success and meeting the challenges of 2003. This past year was action-packed and multi-faceted, underscoring NHA's growing areas of involvement, influence and interest.

First, NHA was at the center of the debate during the historic FERC licensing rulemaking. This was the culmination of many years of collaborative efforts with licensees, Federal and state agencies, and environmental and recreation groups to improve the licensing process. These successful efforts will affect how projects are licensed for years to come.

Second, NHA and its members spent innumerable hours working to pass comprehensive national energy legislation in 2003. Although the energy bill, which includes important hydro initiatives, did not pass last year, it remains a priority of the Administration and the Congress, and we're hopeful it will pass this year.

Third, we worked to better educate the public and policy makers about the importance of hydroelectric power. We will continue to broaden the scope of this message and improve upon our efforts every year to educate our nation on the importance of hydro as a renewable and sustainable energy source.

We've accomplished much this year, but our future work is cut out for us. Since 2004 is an election year, we must also build upon last year's work to communicate even more effectively with policy makers about the benefits of hydro. We've shown that we're ready to tackle whatever is necessary through your commitment and enthusiasm in 2003.

Thanks again for all your hard work! I encourage our members to fully engage in NHA's activities and to get on board for the challenging year ahead. There's never been a more important time for NHA.

Executive Director's Message

Promoting Our Greatest Energy Asset

For nearly a decade, the hydropower industry has focused its attention on responsible regulatory reform. As 2004 unfolds, we can proudly point to some significant achievements.

NHA was instrumental in securing the Alternative Licensing Process in the later half of the 1990's. Our collective efforts spurred FERC's hydro rulemaking that culminated last summer with the creation of another creative approach to licensing, the Integrated Licensing process. We also have played a strong role in smaller, but important, regulatory actions. And, as we go to publication, a major comprehensive energy bill that contains important licensing reform provisions *and* incentives for new development sits before Congress. If enacted, these provisions will create a balanced and workable licensing process that recognizes both the power and non-power values of hydropower. In addition, we will hopefully see new hydropower development, something that has been absent for far too long.

Though they have been years in the making, our accomplishments establish a framework to address some of the problems within the regulatory structures surrounding hydropower. Collectively, they will improve the environment in which we operate, reduce unnecessary market barriers and further the mutual goal of a viable hydropower industry and healthy rivers.

With that said, we have a ways to go as an industry. Our work is not done and we have new goals to meet. So what is next – what happens if energy legislation is passed and our largest near-term goal is completed? What is the next big hurdle? In what direction does this industry, as well as this Association, head? I think the answer might surprise you.

I believe our greatest hurdle lies within ourselves – our way of thinking in how we pursue our goals. As we look to chart a new course for industry, I think we need to alter our way of thinking about hydropower and the ways in which we promote it. We take too much for granted and at times are too passive. It is an industry that should be growing, not diminishing.

Consider the many attributes of hydropower and take into account the totality of all that it offers society. Compare those attributes to the realities of our energy needs today. How do they measure up? Very well, I would argue. As we all know, hydropower offers so many wonderful benefits. It is much more than clean, natural energy. Hydropower suffers from no price volatility, is emissions-free, domestic, reliable, readily available and affordable. At the same time, it offers a place to recreate – to fish, hike, swim, sail, canoe or kayak and enjoy nature. What other resource offers that in addition to its valuable energy contributions? None. We must all promote these facts each and every day of our lives.

In April, industry will gather in Washington for NHA's 2004 annual meeting. Our theme, *Hydropower, Much More than Energy*, provides us with the perfect opportunity to celebrate hydropower and its wonderful and unique contributions. But let us not stop with a three-day celebration and then head back to the old daily grind. Let's get our message out – each and every day – in as many forums as possible. We need to build alliances that promote these attributes within our communities, our states and inside Washington, DC. If not, we are selling our resource, ourselves and our nation short.

Because NHA recognizes that we need to rethink how we promote hydropower, we are currently involved in an exciting public affairs research project involving focus groups. We are learning that our focus has been too narrow. We are also learning that the public wants to know more about hydro and that it supports its increased usage. Also this year, NHA is launching a new program to better position hydropower so that policymakers, and the public, cannot ignore or forget all that hydropower represents – and all that it means for our future. In short, we will gain and use new tools to cast a larger net and successfully get our message out.

I hope you will join us in this positioning project by making a commitment today to stay engaged, to rethink how you promote this resource, to take an active role within your communities, your states and in our national energy debate, and spend each and every day promoting our greatest energy asset and the totality of its benefits. Your commitment is crucial. By doing so, we will together secure hydro's rightful role as a clean and important energy source for our future.

In closing, I remember the line from Shakespeare's play *Julius Caesar*, "men at some time are masters of their fates: The fault, dear Brutus, is not in our stars, but in ourselves." We can make a difference and improve the future for this great resource, but it requires us to rethink what we do, and most importantly, to take aggressive action.

Linda Church Ciocci
Executive Director

New Members

NHA welcomes new 2003 members. They include:

Generators, representing companies with hydroelectric generation:

- Central Vermont Public Service
- Ford Motor Company
- Snohomish Public Utility District

Service Industry, representing companies supplying services and equipment to the hydroelectric industry:

- Precision Machine Supply
- Stoel Rives

Supporting, representing small companies and hydro generators less than one MW, as well as individual consultants and other hydro advocates:

- GEI Consultants
- GeoSyntec Consultants

- GZA
- Stein Seal Company
- Unipower

Associate, **Need a Description**

- Golden Field Office - US DOE
- Northwest Hydroelectric Association

The Year in Review

Legislative Reform of Licensing Process Within Grasp

Legislative reform of the hydro licensing process has been a goal of NHA and its industry partners for many years. NHA pushed hard over this past year to see final action of legislation and we came closer than ever before to see a measure enacted. But the Senate failed to approve a conference report in the waning days of the first session and this important piece of legislation now waits final action in the midst of election-day politics. It has been a long ride with many twists and turns.

By a vote of 257-175, the U.S. House of Representatives on April 11 passed **H.R. 6**, the *Energy Policy Act of 2003*. This comprehensive energy bill, authored by Energy & Air Quality Subcommittee Chairman **Joe Barton (R-TX)**, included even stronger hydropower licensing reform provisions (Title III) than adopted in the previous Congress. The measure received wide support from NHA and its industry partners.

Title III of the *Energy Policy Act of 2003* mirrors language of **H.R. 1013**, which was introduced earlier in the year by Congressmen **George Radanovich (R-CA)**, **Greg Walden (R-OR)** and **Ed Towns (D-NY)**. Their proposal built off of licensing reform language passed in the Senate last year via a bipartisan floor amendment sponsored by Senators **Ben Nelson (D-NE)**, **Larry Craig (R-ID)** and **Gordon Smith (R-OR)**.

Three months later July 31, the Senate took up and adopted comprehensive energy legislation. The bill adopted, however, was not S. 14, which the Senate debated on and off for over two months. Rather, the Senate instead passed legislation it adopted in 2002 during the 107th Congress. To say the least, it was an odd twist and surprise ending to what had been a largely turbulent and uncertain ride for energy legislation in the Senate in 2003.

While NHA supported both versions of the hydro licensing provisions as they moved through their respective legislative bodies. But as Congress worked to resolve the difference between both versions in conference, NHA worked extremely hard to secure the House language in the final Conference report. This language will, if enacted:

- allow a licensee to propose a cost and/or energy-saving alternative condition – an alternative that federal resource agencies would have to accept if the agencies determined that it met its existing statutory requirements for environmental protection;
- provide an opportunity – once mandatory conditions are drafted by federal resource agencies – for an agency hearing on the record on any disputed issues of material fact;
- require federal resource agencies to document that it gave “equal consideration” to the energy, economic, environmental and other public impacts of their mandatory conditions before imposing them on licensees – something that agencies are not doing now; and
- provide a non-binding dispute resolution process should FERC find a final mandatory condition to be inconsistent with its requirements under the Federal Power Act.

The conference report, carrying the house number and title, **H.R. 6**, the *Energy Policy Act of 2003*, was quickly sent to the House of Representatives for acceptance by a vote of 246-180. Ten members did not vote and 46 Democrats supported the bill.

The measure's fate will be decided by Senate as Pete Dominici, Chair of the Senate Energy Committee works to overcome a Senate filibuster. NHA is hopeful that the Senate will enact a final bill early in 2004.

Incentives for New Development Sees Action

Incentives for the development of new hydro projects received a great deal of Congressional attention of this year. As with hydro licensing reform language, provisions that will provide for incentive payments for incremental hydro has its fate in the hands of the Senate. H.R. 6, conference report, contains a provision that will provide incentive payments for incremental hydropower and power at non-hydro dams.

(Brandon, note I think we need more on incentives - while we may not have push this portion of the bill since it was not tax incentives - - we need a piece I here about our fight for incentives for hydro - - we put it into previous annual report - it has been theme for the last several - we can't give is such passing mention - I started something here that you and Mark can finish - also - I added Pete Dominic because the was no mention of him - we need to recognize his efforts - please put that in format and check with Mark to see if there is any other important political person we should include)

Defending Hydro

Much of NHA's public affairs efforts throughout 2003 revolved around the debate on the energy bill. Hydropower's opposition forces worked hard early in 2003 to generate negative press against the legislation's licensing provisions and incentives. The most successful result of this press campaign was an article in the Sunday edition of the *Washington Post* attacking energy bill's hydro language. Subsequently, many regional papers ran the story or renditions of it. NHA worked with reporters to correct the articles and to encourage more balanced reporting. The result, NHA's responses ran in many of the regional papers and on August 5 the *Seattle Post-Intelligencer* ran a lengthy op-ed by Linda Church Ciocci.

On a proactive stance, NHA worked closely with its renewable coalition partners and with the American Council on Renewable Energy (ACORE), to use their networks to further the industry's agenda and educate a wide network of grassroots organizations about the importance of hydropower and its current policy needs. Articles appeared in the (solar network)

Hydropower: Much More than Energy

To reinforce the many benefits hydropower provides to our country, NHA has undertaken a promotional campaign, which will grow in 2004. The first component was an educational policy paper, *Recreation at Our Nation's Non-Federal Hydropower Projects: A Wealth of Opportunities*, that was completed in July. The six-page paper highlights the resources devoted to recreation at the United States' 1,600 FERC-licensed hydropower projects. The paper also includes snapshots and examples of various recreational opportunities available at several NHA member projects. Written to fulfill multiple uses, the new advocacy piece can be used by NHA and member companies to educate both the general public and policymakers.

The blackout in August of this year provided NHA with yet another opportunity to focus public attention on the importance of hydropower in providing energy security and reliability. NHA issued a press release about black start capabilities and the important role hydro played in restoring the New York to power. Building off of NHA's reliability paper issued in _____, stories were picked up in several papers (can we list anything here - (add a little more hear about what we put out)

Understanding the Public's View of Hydro

In an effort to build upon the highly successful 2002 public opinion poll, NHA obtained funding to assemble regional focus groups to delve into the public's understanding and views of hydropower and the policies that govern it. The focus group effort will provide NHA and its members with important and detailed information and help us better craft messages as we work to more effectively spread the word about hydropower and its benefits in 2004. The effort will also determine if there was any impact on the public's views from the closely covered and divisive

energy bill debate, as well as this past summer's blackout, where hydro played a key role in restoring grid operations and helped keep many out of the dark. The work is to be completed in early 2004.

Hydro Licensing Rulemakings Kept Industry Busy

NHA was very active and engaged on a FERC **hydro licensing rulemaking** that was announced at HydroVision in the summer of 2002. Following FERC's issuance of its NOPR in February, the Commission held nationwide public forums that culminated in a week of stakeholder drafting sessions at the FERC offices in Washington, DC. NHA worked aggressively to organize the industry by encouraging attendance at both the forums and drafting sessions. We filed comments in response to the NOPR, participated in the public forums and worked closely with our industry partners to ensure that industry's voice was consistent and strong.

FERC issued the final rule reforming the hydro licensing process on July 23. In a unanimous 3-0 vote, the Commissioners hailed the work of staff and all stakeholders throughout the process and stated that the rulemaking provided a model for future proceedings. The final rule included many of NHA's recommendations. Work on the licensing process will continue in 2004 as NHA monitors the implementation of the final rule and works with FERC on additional reforms not addressed in the rule. The Commission itself stated that continued work on the licensing process will continue.

In the rule, the Commission adopted a new integrated licensing process (ILP) that front loads FERC NEPA scoping, involves FERC staff earlier in the process and provides better coordination between the Commission and the federal and state agencies with authority to require conditions for FERC-issued licenses. NHA has advocated and pursued these changes with the Commission for many years.

Also included in the final rule was NHA's proposal of a technical conference to the formal dispute resolution process. This conference will provide applicants an important opportunity to meet with and submit comments to the study dispute resolution panel before recommendations are made on disputed studies. The technical conference will allow applicants to correct any misinformation concerning the project, ensuring the panel's recommendations to the Director of Office of Energy Projects are based on accurate and factual data.

NHA Continues Work on Infrastructure Information Security

Following up on its 2002 work on critical energy infrastructure information (CEII), NHA filed comments on FERC's second **CEII NOPR** on May 16. NHA's comments supported the proposed revisions, suggested minor modifications and requested additional clarification. The final rule, approved July 23, made changes to the Commission's regulations that require companies to make CEII available directly to the public in documents under the control of individual companies. Also at this time, the Commission issued an order revising its earlier adopted rules regarding CEII submission to FERC. Under the new rules, FERC adopted a CEII process that largely parallels the process of submission of confidential materials. The rules also allow companies to better protect CEII in documents that are made available directly to the public from the company. Following the issuance of the rules, NHA developed and distributed a white paper on the requirements for the membership.

NHA Responds To Long Awaited GAO Report

The United States General Accounting Office (GAO) in May released its report, *Charges for Hydropower Projects' Use of Federal Lands Needs to be Reassessed*. The report criticized FERC's fee collection process and suggested a new methodology that would result in significantly increased land use fees for much of the industry. NHA's GAO Land Rents working group, which monitored the development of the report, provided comprehensive comments to the GAO on March 31. These comments, as well as GAO's responses to them, were included in the final version sent to Congress.

Following its release, NHA worked quickly to prepare its response and published an advocacy piece highlighting the faults in the GAO's analysis of the current fee structure. NHA staff has been tracking accounts of the report in the press. Staff has also been in contact with the Hill to educate both members and staff on the flaws contained in the report. Additionally, language was removed from the 2004 Appropriations bills that would have required FERC to evaluate their system.

Forest Service Adopts NHA Policy Recommendation

NHA has long pursued changes in the Forest Service's (FS) NEPA process for 4(e) mandatory conditions, considered one of the most duplicative elements of the hydro licensing process. On May 12th, NHA's hard work paid off. **Tom Thompson, Deputy Chief for the National Forest System**, issued a letter to all FS regional foresters stating, "effective immediately...the FS will rely upon FERC's NEPA analysis to support the FS's 4(e) conditions. Therefore, the FS will no longer issue a separate "NEPA decision document" in association with our 4(e) conditions." Instead, the Forest Service will submit its analysis and supporting documentation to FERC to be included in FERC's NEPA process. This move also eliminated the Forest Service's appeals process of mandatory conditions, which was largely unworkable in the opinion of many. NHA will continue to push the Forest Service for a legitimate and workable appeals process on 4(e) conditions. The elimination of the FS NEPA process, however, was a step in the right direction, saving time and costs for licensees engaged in a project relicensing.

Legal Developments

NHA filed a "friend of the court" brief on September 10 with the United States Supreme Court in the case of South Florida Water Management District v. Miccosukee Tribe of Indians and Friends of the Everglades, Inc. The Tribe and Friends of the Everglades questioned whether the pumping of already polluted water between two distinct and separate bodies of water, in this case a canal polluted by excess phosphorous and the relatively unpolluted Everglades, constitutes an "addition" of a pollutant into a navigable water, requiring a National Pollution Discharge Elimination System (NPDES) permit under the Clean Water Act (CWA).

NHA was concerned that the case could result in a decision that subjects hydroelectric dams to NPDES permit requirements. Because such an outcome would have significant repercussions for the hydro industry, NHA filed a brief in support of South Florida Water Management District. In the brief, NHA challenged the decision of the Eleventh Circuit in the case and urged the Supreme Court to reverse the decision the Supreme Court should reverse the Eleventh Circuit's decision. The Supreme Court heard oral arguments in the case on January 14, 2004. A decision is expected by July 2004.

The hydro industry scored big wins in the legal arena this past year.

California Trout, Inc. v. FERC

In this case, California Trout argued before the Ninth Circuit Court of Appeals that FERC must require a licensee to obtain water quality certification under Section 401 of the CWA before granting an annual license. FERC and Southern California Edison, whose project was at the center of the litigation, argued that water quality certification was not required as the issuance of an annual license is a ministerial and non-discretionary act that does not trigger the requirements of the CWA. NHA filed an amicus brief in support of FERC and SCE. The court ultimately ruled in favor of FERC, and though California Trout appealed, the Supreme Court denied that appeal. NHA was heartened with the courts' decision to forgo imposing further regulatory hurdles to a licensing process that is already much too lengthy and time consuming.

City of Tacoma v. FERC

In this case, the City of Tacoma and others, before the D.C. Circuit Court of Appeals, challenged FERC's process for appealing annual charges submitted to the Commission by the federal agencies and billed to licensees. NHA filed an amicus brief in support of the industry petitioners. The court ruled that Section 10(e) of the Federal Power Act requires FERC to ensure that its annual charges to licensees are reasonable and include only those costs that are authorized for collection under the statute. The court required FERC develop and implement appropriate procedures to ensure its proper review of costs reported by the agencies. NHA fully supports the decision and will continue to monitor the issue and work with FERC to address problems in the collection of annual charges.

Washington Trout, Inc. v. FERC

In this case, Washington Trout, before the Ninth Circuit Court of Appeals, argued that the presence of a license re-opener is a federal action triggering Endangered Species Act Section 7 consultation. NHA filed an amicus brief in the case arguing that Washington Trout was attempting to use the ESA as a mechanism to bypass the FERC

licensing process under the Federal Power Act. The court ultimately dismissed the appeal on the ground that it was premature and that FERC had taken no final appealable action with respect to the project-at-issue's impacts on listed species.

Alabama River Alliance v. FERC

In this case, Alabama River Alliance challenged, before the D.C. Circuit Court of Appeals, FERC's approval of license amendments without CWA Section 401 water certification, where FERC had determined that no material adverse impact would result to the receiving waters water quality. NHA filed a brief in support of Alabama Power Company, whose project was at issue in the case. The court ruled that a licensee seeking a license amendment to replace turbine generators that may result in higher volumes of water containing low dissolved oxygen must obtain state water quality certification. While disappointed in the decision, NHA continues to work with FERC on this issue and on limiting the scope of the court's decision.

Hydro R&D Moving Forward

The hydro R&D program, languishing over several years, received a real shot in the arm over this past year. Renewed emphasis on hydro R&D within the DOE, efforts to build stronger relationships among the renewable programs within DOE, and advancing to the next major step with the advanced hydro turbine all lead to some important gains for hydro R&D.

Grant County Public Utility District received DOE permission to move forward with the testing phase of the Advanced Hydropower Turbine System. Following completion of the installation, testing should begin in 2004. Fiscal year 2004 funding for the AHTS and other programs is \$5 million. The level is more than the Senate mark but less than the House mark. Given budget constraints and cuts in funding from Capitol Hill, this funding level was not a surprise.

A reorganization occurred at DOE that merged the hydro and wind offices, providing new leadership at the Department on hydro issues. NHA has initiated discussions with the DOE to create a National Hydropower Coordinating Committee, similar to that already established for both wind and geothermal. This work is now in the early stages and should take off in February 2004.

NHA began actively exploring the integration of hydropower with other renewables, most notably hydrogen and wind. DOE held a workshop on each of these issues in 2003. NHA has included this topic for a half-day forum at the April 2004 conference to pursue these concepts, determine policy questions and R&D needs that need to be addressed to bring more synergies between hydro and other renewable technologies.

Overall, 2003 was very encouraging for hydro R&D program development, but disappointing in terms of funding. Once again, Congress failed to appropriate a level of funding to sustain the hydro R&D program and approved only \$5 million for the AHTS and other hydro programs. This level was more than the Senate mark but less than the House. As we move into 2004, NHA is planning a significantly increased campaign targeted at the Hill appropriations committees to better educate them about the importance of the program and the many benefits that could be realized through more effort in the hydro R&D area.

(Add conference)

2002-2003 Leadership

Executive Committee

Executive Director	Linda Church Ciocci, National Hydropower Association
President	Angela Risdon, Pacific Gas & Electric Company
Vice President	John Prescott, Idaho Power Company
Treasurer	Nancy Skancke, Law Offices of GKRSE
Secretary	Terry Flores, PacifiCorp

Board of Directors and Their Terms

Charles F. Alsberg	North American Hydro, Inc.	TE: 2005
Janet Audunson	E/Pro Engineering & Environmental Consulting, LLC	Advisory
Michael Bahleda	EPRI	Advisory
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Karl Blank	AmerenUE	TE: 2005
Stephen R. Brown	Grant County Public Utility District	TE: 2004
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Leslie Eden	HCI Publications	TE: 2006
Lloyd Everhart	Xcel Energy	Advisory
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Alan Soneda	Pacific Gas & Electric Company	TE: 2006
Fred Springer	Troutman Sanders	Advisory
John Suloway	New York Power Authority	TE: 2004
James Weldon	Denver Water Board	Advisory

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Legislative Affairs	Jim Hancock, Balch & Bingham, LLP.
Public Affairs	Leslie Eden, HCI Publications
Regulatory Affairs	Nino Mascolo, Southern California Edison Company
Research & Development	Stephen R. Brown, Grant County Public Utility District
Revenue	Phil Dutton, UAE

2003 Awards

Hydro Industry's Highest Individual Honor Awarded to PGE Director

Julie Keil, an experienced veteran of hydro licensing, received the lifetime achievement Dr. Kenneth Henwood Award on from the National Hydropower Association. Keil is the director of hydro licensing and water rights at Portland General Electric and is responsible for renewing the federal licenses of four hydroelectric projects and for addressing all company water rights issues. She has exhibited her continued dedication to the hydro industry by her active involvement in every major national initiative focused on reforming the hydro relicensing process and furthering the cause of sustaining hydro power as the nation's leading renewable energy technology.

The **Dr. Kenneth Henwood Award** was established in memory of Dr. Kenneth Henwood, an engineer and project developer whose life was tragically cut short in 1990. To earn the distinction an honoree must, among other things, show persistence in the face of institutional obstacles, exhibit fair dealing and plain speaking, and depict an appreciation of the relationships between project engineering, the environment and economics.

Hydro Achievement Awards

In 1994, NHA established the Hydro Achievement Awards to recognize members of the hydro industry for their extraordinary work in three areas: Public Education, Recreation and Technological Solutions.

In **Public Education**, the **Hydro Research Foundation** earned the award for its **Website Development, Phase I**. **AmerenUE** was recognized in the **Recreational Stewardship** category for the **Osage Project's Adopt the Shoreline Program**, which aims to work with the community to clean up the shoreline along the project. The **U.S. Army Corps. Of Engineers & Voith Siemens Hydro Power Generation, Inc.** were jointly recognized in the **Technological Solutions** category for their work on the **J. Strom Thurmond Project**.

Seven Projects Honored for Environmental Excellence

In April 2003, NHA released its fifth annual list of hydroelectric projects that achieved great environmental stewardship, while providing clean, renewable energy and meeting regional electrical needs. The **2003 Outstanding Stewardship of America's Rivers** report highlighted seven projects, three of which were new to the list. These projects improved water quality, enhanced aquatic habitat, restores fisheries, protected endangered species and/or institutes conservation plans for the protection of the environment and wildlife, while improving or creating recreational opportunities.

- Clark Fork River, Clark Fork Projects, Avista Corporation
- Savannah River, Jocassee and Bad Creek Pumped Storage Projects, Duke Power
- Madawaska River, Madawaska River Hydroelectric Projects, Ontario Power Generation
- Mokelumne River, Mokelumne River Project, Pacific Gas & Electric Company
- North Fork Feather River, Rock Creek-Cresta Project, Pacific Gas & Electric Company
- Skagit River, Skagit River Hydroelectric Project, Seattle City Light
- Nisqually River, Nisqually River Project, Tacoma Power