



# Surrender, Revocation, and Dam Removal

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# Surrenders

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- Public interest standard
- Constructed v. unconstructed
- Surrender conditions
  - Site restoration
  - Leave in place
  - Project removal

*City of Portland Water Bureau (exemption),  
149 FERC ¶ 62,211*

*Reedsport (license), 148 FERC ¶ 62,137*

*Borough of Leighton (license), 147 FERC ¶ 62,068*



# Surrenders

## (cont.)

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- Implied surrenders
  - Abandoned projects
  - Destroyed projects
  - Projects unfit for use
  - Generally not conditioned
  - *Hydraco*, 149 FERC ¶ 61,135 (2014)



# Revocation

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(b) **Revocation orders** After notice and opportunity for an evidentiary hearing, the Commission may also issue an order revoking any license issued under this subchapter or any exemption granted from any requirement of this subchapter where any licensee or exemptee is found by the Commission:

- (1) to have knowingly violated a final order issued under subsection (a) of this section after completion of judicial review (or the opportunity for judicial review); and
- (2) to have been given reasonable time to comply fully with such order prior to commencing any revocation proceeding.

In any such proceeding, the order issued under subsection (a) of this section shall be subject to de novo review by the Commission. No order shall be issued under this subsection until after the Commission has taken into consideration the nature and seriousness of the violation and the efforts of the licensee to remedy the violation.



# Revocation, con't.

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- *Eastern Hydroelectric (license)*,
  - 149 FERC ¶ 61,036; *reh'g denied*, 150 FERC ¶ 61,099
  
- *Christopher M. Anthony (exemption)*,
  - 147 FERC ¶ 61,118



# Termination

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- Section 13 of the Federal Power Act states:
  - In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to such project works or part thereof, be terminated upon written order of the commission.
- *AG Hydro*, 149 FERC ¶ 61,040



# Decommissioning: Dam Removal

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- Commission can deny relicense and order project removal (Edwards Dam case, 81 FERC ¶ 61,255 (1997))
- Usually result of settlement agreement with licensee, agencies, stakeholders
- Surrender conditions
  - Commission oversees removal
  - Surrender effective only when all conditions fulfilled
- 15 projects: full or partial removal
- *Policy Statement on Decommissioning*,
  - 69 FERC ¶ 61,336 (1994)
- *PacifiCorp*, 133 FERC ¶ 61,232 (2010) (Condit Project)



# Condit Project



**Before**

**After**





# Web Resources



# Web Resources

[WWW.FERC.GOV](http://WWW.FERC.GOV)

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## Hydropower Webpage

- Overview of licensing, compliance, and dam safety programs.

## eLibrary

- Searchable database of all issuances and filings at the Commission (public record) allows applicants and stakeholders online access to them.

## eSubscription

- Enables applicants and stakeholders to receive email notifications of all issuances/filings related to a proceeding, with direct links to them.

## eFiling

- Provides ability for applicants and stakeholders to file documents on a proceeding electronically.



# Questions?

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