



STATE OF WASHINGTON

**Water Quality Unit Supervisor**  
**Department of Ecology**  
**Chad Brown**

Madam Chair, Ranking Member Cantwell, and members of the committee, thank you for inviting the Washington State Department of Ecology to speak to this committee today. For the record, my name is Chad Brown and I supervise a team of staff responsible for the development and implementation of our state water quality standards.

Washington State is fortunate to have ample natural resources to support the production of more hydropower energy than any other state in the nation. With this valuable, renewable, carbon-free resource and its importance to our state comes the responsibility to manage a variety of regulations associated with licensing of these energy projects. Among these is the responsibility to ensure that water quality is sufficient to support swimmable and fishable rivers. This is the basis for much of our environmental review of hydropower projects.

As the water quality authority in our state, Ecology's work includes the issuance of state certifications for hydropower projects licensed by the Federal Energy Regulatory Commission. These certifications are issued through authority provided to states under Section 401 of the Federal Clean Water Act. These 401 certifications provide assurance to hydropower producers that their project development and operations will meet applicable state environmental regulations.

In the last decade, several large hydropower projects in Washington completed the FERC relicensing process. In this period, Washington successfully issued sixteen 401 certifications which accounts for more than two thirds of all FERC-regulated hydropower in our state. This was a significant effort for our agency as well as for those hydropower producers. Yet, we met the challenge collaboratively, in large part due to the financial support provided by the hydropower industry through Washington's Water Power License Fee program.

This fee program began in 2007 as hydropower leaders in our state recognized the growing workload associated with issuing 401 certifications necessary for them to meet their FERC licensing requirements.

In collaboration with the hydropower industry and other stakeholders, Ecology worked with our state legislature to institute a new fee based on the amount of water each licensed project uses to generate electricity. By basing the fee on the quantity of electricity a project can produce, the fees are distributed in a manner consistent with each project's revenue generating capability.

For a decade these fee revenues have supported the regulatory workload to efficiently and effectively meet licensing timelines for new and relicensed hydropower projects. This program provides greater certainty in the timing of the license process which is important to hydropower producers so they may continue to provide important renewable energy while also meeting current environmental regulations.

The Washington State legislature recognized that this fee program was not without controversy and therefore included a provision requiring periodic reporting on the use of fee revenue to provide oversight and to be used for future consideration of fee continuance. We utilized this provision in 2016 as we engaged with the hydropower industry and stakeholders to; review the program, improve the quality of service, and increase transparency of revenue expenditures. The fee program was then extended through the year 2023.

The Washington State Department of Ecology recognizes the importance of finding efficiencies and improving licensing procedures for new and continuing energy projects. The water power license fee revenue model has been one such successful strategy to support efficiency of Washington's role in FERC hydropower licensing.

However, we acknowledge that there is room for further improvements through federal legislation. House Bill 3043 and Senate Bill 1460 both contain language which would act to improve the FERC licensing process. We believe it is important that any new legislation be consistent with current federal and state laws and maintain appropriate authorities in place to ensure protection of natural resources. My agency has provided comment on similar bills in past legislative sessions and we appreciate improvements made in this regard. We have

confidence that through collaborative development and review, final legislation can meet both goals.

It is important to recognize that certifications, permits, and other authorizations required to license energy projects must be defensible in order to avoid challenges from project opponents. Any legislation that would improperly abbreviate environment review timelines or otherwise limit the authorizing agencies' ability to fully carry out environment studies may lessen the defensibility of the license. This can lead to litigation, ultimately hindering a project's viability. Limiting the ability to complete full environmental reviews, may act to exchange efficiencies gained in the licensing process, for greater delays in the courts.

Regulatory agencies like the Department of Ecology share the goal of improving the licensing process. In Washington, we seek to work effectively with our hydropower applicants to determine the appropriate information necessary to deliver a timely and defensible 401 water quality certification. A well-funded program is an effective strategy to ensure regulatory certainty that is vital for the success of renewable energy projects.

In closing, the Washington Department of Ecology supports the legislative intent of SB 1460 to improve licensing procedures and we believe it is imperative that final legislation also protect the current independent authority of states to ensure that projects meet important environment regulations. We also thank you for the opportunity to highlight our fee program as a means to improve one step in licensing process. We believe the success of this program stems from early engagement with hydropower producers, and proper funding for dedicated staff which effectively retains expertise, and supports continuity and consistency within the process.