

**SUPPORTING STATEMENT FOR FERC-587,
Land Description: Public Land States/Non-Public Land States (Rectangular or Non
Rectangular Survey System Lands in Public Land States)
(Three-year Approval requested through 6/30/2012)**

The Federal Energy Regulatory Commission (Commission or FERC) requests that the Office of Management and Budget (OMB) review and extend its approval of **FERC Form No. 587, Land Description: Public Land States/Non-Public Land States (Rectangular or Non Rectangular Survey System Lands in Public Land States)** (OMB Control No. 1902-0145) through 6/30/2012.

FERC Form No. 587 is required by Section 24 of the Federal Power Act (copy attached). The estimated total reporting burden for FERC Form No. 587 is expected to average 250 hours per year over the next three years. The average burden per filing is estimated to be 1 hour.

A. JUSTIFICATION

Background

All lands in the public domain are subject to subdivision by a rectangular system of surveys called the Public Land Survey System (PLSS), established and regulated by the Bureau of Land Management, Department of the Interior. The original public domain includes the land ceded to the Federal Government by the Thirteen Original States, supplemented with acquisitions from Native American Indians and foreign powers. It encompasses major portions of the land area of 30 western States.

Under Congressional mandate, cadastral surveys of public lands were undertaken to create parcels suitable for disposal by the Government¹. The PLSS was developed for this purpose. The PLSS is a rectangular survey system that provides for a unit of land that is approximately a 24-mile square (24 mi. X 24 mi.), bounded by base lines running east and west, and meridians running north and south. This 24-mile square is divided into areas that are six-mile squares (6 mi. X 6 mi.) called townships. Townships are further divided into 36 sections, each a one-mile square.

Certain lands were excluded from the public domain and are not subject to survey

¹ Cadastral Survey is the rectangular system that is used mostly in the western states to survey the public lands. The system is comprised of Townships (running north and south) and Ranges (running east and west) emanating from a point of latitude and longitude. Each Township and Range is six miles square and divided into 36 Sections (a square mile). However, due to the curvature of the earth and other boundary restrictions, not all sections are a square mile in size. In such cases, the section may be divided into Lots. This system provides that a legal description of a parcel is unique. Nowhere else will a parcel of land be found with the same legal description.

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and disposal. These lands include the beds of navigable bodies of water, national installations such as military reservations and national parks, and areas such as land grants that have already passed to private ownership prior to subdivision by the Government.

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

Under the authority of Part I of the Federal Power Act²(FPA) the Commission has the authority to issue licenses for hydroelectric projects on the waters over which Congress has jurisdiction. The FPA as amended by the Electric Consumers Protection Act³ (ECPA) provides the Commission with the responsibility of issuing licenses for nonfederal hydroelectric plants. The passage of ECPA in 1986 also revised the language of the FPA concerning environmental issues.

Section 24 of the FPA requires that applicants proposing hydropower projects on, or changes to existing projects located on, lands owned by the United States are required to provide a description of the U.S. lands affected and to notify the Commission and the Secretary of the Interior. FERC Form No. 587 consolidates the information required, and identifies hydropower project boundary maps associated with the lands of the United States.

When the filer submits the FERC-587, the filer is also required to submit exhibit drawings (e.g., on aperture cards and/or electronic files).⁴ The FERC-587 serves as a ‘table of contents’ for the federal lands that are shown in the drawings.

Attached are copies of the related statute (Attachment A) and regulations (Attachment B).

2. HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND THE CONSEQUENCES OF NOT COLLECTING THE INFORMATION

216 U.S.C. Sections 791a *et seq.* (1996)

3Pub. L. 99-495, 100 Stat. 1243 (1996).

4 The reporting requirements and burdens related to the preparation and submittal of the actual drawings are included, as appropriate, in: FERC-512 (Application for Preliminary Permits; OMB Control No: 1902-0073), FERC-500 (Application for License/Relicense for Water Projects with Capacity Greater than 5 MW; OMB Control No. 1902-0058), and FERC-505 (Application for License/Relicense for Water Projects with Capacity 5 MW or Less; OMB Control No. 1902-0115). Those collections are not a subject of this clearance package.

The information collected by FERC Form No. 587 (Attachment C) is used by the Commission to verify the accuracy of the information provided and to coordinate with the Bureau of Land Management (BLM) States Offices (Department of the Interior) to ensure that U.S. lands can be reserved as hydropower sites and withdrawn from other uses.

In deciding whether to issue a license, the Commission gives equal consideration to a full range of licensing purposes related to the potential value of a stream or river. These purposes include: hydroelectric development; energy conservation; fish and wildlife resources, including their spawning grounds and habitat; visual resources; cultural resources; recreational opportunities; other aspects of environmental quality; irrigation; flood control; water supply; and geographical boundaries of the project. After a license is issued, the Commission monitors the licensee's compliance with the license conditions throughout the term of the license.

In the hydropower project approval process, the project owner (licensee/exemptee) is required to submit drawingsError: Reference source not found showing all project features, project boundaries, and all plans related to the development of the project (e.g. recreational plans). The plans are submitted to the Commission for review and approval.

The Office of Energy Projects (OEP) assigns and tracks exhibit drawings for proposed, licensed, and exempted hydropower projects. Along with the authorizing document (Preliminary Permit, License, or Exemption), exhibit drawings are the primary source of information about a hydropower project. The drawings or exhibits are necessary in order to track the boundary of a project for land withdrawal from public use. OEP coordinates with the U.S. Department of the Interior's Bureau of Land Management (BLM) for those proposed projects on federal lands.

Submission of the FERC-587 data is necessary to fulfill the requirements of the FPA (Section 24 of the FPA) which specifies that federal lands are considered withdrawn upon receipt of a hydropower project application. It is important that the BLM be notified of the withdrawal as soon as possible and receives a copy of the application, boundary exhibits and FERC Form No. 587. In addition, the information assists the Commission in making a required finding that the proposal is economically, technically, and environmentally sound, and is best adapted to a comprehensive plan for improving/developing a waterway or waterways.

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3. DESCRIBE ANY CONSIDERATION OF THE USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN AND TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN

In general, the Commission continues to expand the list of filing types that may be submitted electronically (as described at <http://www.ferc.gov/docs-filing/efiling.asp>). The FERC-587 may be submitted electronically through the FERC's eFiling system. (A sample FERC-587 filing, which was submitted through the eFiling system in March 2009, is available through FERC's eLibrary system at http://elibrary.ferc.gov/idmws/search/intermediate.asp?link_info=yes&doclist=13694950.)

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION AND SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN INSTRUCTION NO. 2

Filings are periodically reviewed in conjunction with OMB clearance expiration dates. This includes a review of the Commission's reporting requirements to identify duplication of data requirements. To date, no duplication of FERC-587 data has been found. The information is case specific to the applicant and site.

5. METHODS USED TO MINIMIZE BURDEN IN COLLECTION OF INFORMATION INVOLVING SMALL ENTITIES

The reporting requirements associated with FERC-587 are the basic filing requirements pertaining to all applications to identify potential hydropower projects or changes to hydropower projects. There are no similar sources of information available that can be used or modified for use as the information collected is unique to the applicant and the site for which the filing is made.

The minimization of impact on small businesses would not be applicable. The burden will vary among applicants, since the information should be specific for each applicant and site.

6. CONSEQUENCE TO FEDERAL PROGRAM IF COLLECTION WERE CONDUCTED LESS FREQUENTLY

The data required impose the least possible burden on applicants, while collecting the information required for processing the application.

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7. EXPLAIN ANY SPECIAL CIRCUMSTANCES RELATING TO THE INFORMATION COLLECTION

The guidelines of 5 C.F.R. 1320.5(d) are being followed with the submission of the information required under FERC Form No. 587.

8. DESCRIBE EFFORTS TO CONSULT OUTSIDE THE AGENCY: SUMMARIZE PUBLIC COMMENTS AND THE AGENCY'S RESPONSE TO THESE COMMENTS

In accordance with OMB requirements in 5 C.F.R. 1320.8(d), a Notice requesting comments on the reporting requirements of FERC-587 was issued in FERC Docket No. IC09-587 on 1/9/2009 (at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=11901759>). The Notice was published in the Federal Register at 74FR 2573 on 1/15/2009. There were no comments filed in response to this Notice.

9. EXPLAIN ANY PAYMENTS OR GIFTS TO RESPONDENTS

No payments or gifts have been made to respondents.

10 and 11. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS & PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE THAT ARE CONSIDERED PRIVATE

The information submitted to the Commission is public information and therefore is not considered confidential. Specific requests for confidential treatment may be submitted to FERC pursuant to 18 C.F.R. 388.112.

No data of a sensitive nature is requested.

12. ESTIMATED BURDEN COLLECTION OF INFORMATION

The annual burden estimate for information collection under FERC Form No. 587 is based on the Commission's experience with the licensing process. The estimates for the average annual burden for completing FERC Form No. 587 follow.

FERC Data Collection	Number of Respondents Annually (1)	Number of Responses Per Respondent (2)	Average Burden Hours Per Response (3)	Total Annual Burden Hours (1)x(2)x(3)
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FERC-587 burden hours currently in OMB's inventory: 250
 Program change in industry burden hours : 0
 Adjustment change in industry burden hours: 0

13. ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS

The estimated, annual cost to the respondents for FERC-587, averaged over the next three years, is as follows:

Total Annual Burden Hours For Respondents (1)	Person Hours Per Year (2)	Estimated Annual Cost Per Person⁵ (3)	Total Annual Cost To Respondents [(1)/(2)]x(3)
250	2080	\$128,297	\$15,420

14. ESTIMATED ANNUALIZED COST TO FEDERAL GOVERNMENT

The estimated annualized cost to the Federal Government for FERC-587 is shown below:

Processing of Request for Renewal of OMB Clearance	\$1,480
Analysis of data (FERC hydropower licensing program is reimbursed by licensees pursuant to Section 10(e) of the Federal Power Act), 1.7 FTE Error: Reference source not found	\$218,105
Total estimated annual federal cost⁶	\$219,585

⁵The estimated annual cost per employee is \$128,297.

⁶ Although the current OMB inventory says \$0, the estimates (in the clearance package) for the annual federal cost during the last OMB 3-year clearance renewal cycle were:

- a) Data clearance (FERC FY 2005) of \$6,285.00
- b) Analysis of data (FERC hydropower licensing program is reimbursed by licensees pursuant to Section 10(e) of the Federal Power Act), 1.7 FTE, totaling \$191,704.00

Those figures gave a total estimated cost in one year of operation of \$197,989.00.

For this 3-year clearance cycle (requesting an extension through 6/30/2012), the following federal cost figures **update and replace** the former estimates:

- estimated annual cost for one FTE has been revised to \$128,297

15. REASONS FOR CHANGES IN BURDEN INCLUDING THE NEED FOR ANY INCREASE

The Commission is submitting FERC-587 for renewal. There are no changes to the reporting burden or requirements.

16. TIME SCHEDULE FOR PUBLICATION OF DATA

There are no tabulations, statistical analysis or publication plans for the information collection. The data are used for regulatory purposes.

17. DISPLAY OF EXPIRATION DATE

The expiration date is displayed on the FERC Form 587, as posted on the FERC website at http://www.ferc.gov/industries/hydropower/gen-info/guidelines/drawings_guide.pdf at Appendix 5.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

The data collected for this reporting requirement are not used for statistical purposes. Therefore, the Commission does not use, as stated in item no. 19(i), "effective and efficient statistical survey methodology." The information collected in FERC-587 is case specific to each respondent and site.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable. Statistical methods are not employed for this data collection.

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- the FTE required for analysis have been retained at 1.7FTE
 - the cost for clearance for a 3-year renewal is currently estimated to be \$4,440 for the 3-year period (or \$1,480 annually).

U.S. Code (USC) [TITLE 16](#) > [CHAPTER 12](#) > [SUBCHAPTER I](#) > § 818

§ 818. Public lands included in project; reservation of lands from entry

Any lands of the United States included in any proposed projection under the provisions of this subchapter shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this subchapter, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this subchapter, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: Provided, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites, or in connection with water-power development, or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained: Provided further, That before any lands applied for, or heretofore or hereafter reserved, or classified as power sites, are declared open to location, entry, or selection by the Secretary of the Interior, notice of intention to make such declaration shall be given to the Governor of the State within which such lands are located, and such State shall have ninety days from the date of such notice within which to file, under any statute or regulation applicable thereto, an application for the reservation to the State, or any political subdivision thereof, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways, and a copy of such application shall be filed with the Federal Power Commission; and any location, entry, or selection of such lands, or subsequent patent thereof, shall be subject to any rights granted the State pursuant to such application.

§ 796. Definitions

The words defined in this section shall have the following meanings for purposes of this chapter, to wit:

(1) “public lands” means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public land laws. It shall not include “reservations”, as hereinafter defined;

(2) “reservations” means national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws; also lands and interests in lands acquired and held for any public purposes; but shall not include national monuments or national parks;

The following excerpts, related to FERC-587, are from the Code of Federal Regulations (CFR), Title 18: Conservation of Power and Water Resources, Part 4—Licenses, Permits, Exemptions, and Determination of Project Costs. In addition, 18CFR 4.51, 4.61, 4.71, 4.92, and 4.107 refer to the requirements in 18CFR 4.41h.

18CFR Subpart E—Application for License for Major Unconstructed Project and Major Modified Project

§ 4.41 Contents of application.

Any application under this subpart must contain the following information in the form prescribed...

(h) *Exhibit G* is a map of the project that must conform to the specifications of §4.39. In addition, to the other components of Exhibit G, the Applicant must provide the project boundary data in a geo-referenced electronic format—such as ArcView shape files, GeoMedia files, MapInfo files, or any similar format. The electronic boundary data must be positionally accurate to ± 40 feet, in order to comply with the National Map Accuracy Standards for maps at a 1:24,000 scale (the scale of USGS quadrangle maps). The electronic exhibit G data must include a text file describing the map projection used (*i.e.*, UTM, State Plane, Decimal Degrees, etc.), the map datum (*i.e.*, feet, meters, miles, etc.). Three sets of the maps must be submitted on compact disk or other appropriate electronic media. If more than one sheet is used for the paper maps, the sheets must be numbered consecutively, and each sheet must bear a small insert sketch showing the entire project and indicate that portion of the project depicted on that sheet. Each sheet must contain a minimum of three known reference points. The latitude and longitude coordinates, or state plane coordinates, of each reference point must be shown. If at any time after the application is filed there is any change in the project boundary, the applicant must submit, within 90 days following the completion of project construction, a final exhibit G showing the extent of such changes. The map must show:

(1) *Location of the project and principal features.* The map must show the location of the project as a whole with reference to the affected stream or other body of water and, if possible, to a nearby town or any other permanent monuments or objects, such as roads, transmission lines or other structures, that can be noted on the map and recognized in the field. The map must also show the relative locations and physical interrelationships of the principal project works and other features described under paragraph (b) of this section (Exhibit A).

(2) *Project boundary.* The map must show a project boundary enclosing all project works and other features described under paragraph (b) of this section (Exhibit A) that are to be licensed. If accurate survey information is not available at the time the application is filed, the applicant must so state, and a tentative boundary may be submitted. The boundary must enclose only those lands necessary for operation and maintenance of the project and for other project purposes, such as recreation, shoreline control, or protection of environmental resources (*see* paragraph (f) of this section (Exhibit E)). Existing residential, commercial, or other structures may be included within the boundary only to the extent

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that underlying lands are needed for project purposes (e.g., for flowage, public recreation, shoreline control, or protection of environmental resources). If the boundary is on land covered by a public survey, ties must be shown on the map at sufficient points to permit accurate platting of the position of the boundary relative to the lines of the public land survey. If the lands are not covered by a public land survey, the best available legal description of the position of the boundary must be provided, including distances and directions from fixed monuments or physical features. The boundary must be described as follows:

(i) *Impoundments*. (A) The boundary around a project impoundment must be described by one of the following:

(1) Contour lines, including the contour elevation (preferred method);

(2) Specified courses and distances (metes and bounds);

(3) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(4) Any combination of the above methods.

(B) The boundary must be located no more than 200 feet (horizontal measurement) from the exterior margin of the reservoir, defined by the normal maximum surface elevation, except where deviations may be necessary in describing the boundary according to the above methods or where additional lands are necessary for project purposes, such as public recreation, shoreline control, or protection of environmental resources.

(ii) *Continuous features*. The boundary around linear (*continuous*) project features such as access roads, transmission lines, and conduits may be described by specified distances from center lines or offset lines of survey. The width of such corridors must not exceed 200 feet unless good cause is shown for a greater width. Several sections of a continuous feature may be shown on a single sheet with information showing the sequence of contiguous sections.

(iii) *Noncontinuous features*. (A) The boundary around noncontinuous project works such as dams, spillways, and powerhouses must be described by one of the following:

(1) Contour lines;

(2) Specified courses and distances;

(3) If the project lands are covered by a public land survey, lines upon or parallel to the lines of the survey; or

(4) Any combination of the above methods.

(B) The boundary must enclose only those lands that are necessary for safe and efficient operation and maintenance of the project or for other specified project purposes, such as public recreation or protection of environmental resources.

(3) *Federal lands*. Any public lands and reservations of the United States (*Federal lands*) [see 16 U.S.C. 796 (1) and (2)] that are within the project boundary, such as lands administered by the U.S. Forest Service, Bureau of Land Management, or National Park

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Service, or Indian tribal lands, and the boundaries of those Federal lands, must be identified as such on the map by:

(i) Legal subdivisions of a public land survey of the affected area (a protraction of identified township and section lines is sufficient for this purpose); and

(ii) The Federal agency, identified by symbol or legend, that maintains or manages each identified subdivision of the public land survey within the project boundary; or

(iii) In the absence of a public land survey, the location of the Federal lands according to the distances and directions from fixed monuments or physical features. When a Federal survey monument or a Federal bench mark will be destroyed or rendered unusable by the construction of project works, at least two permanent, marked witness monuments or bench marks must be established at accessible points. The maps show the location (and elevation, for bench marks) of the survey monument or bench mark which will be destroyed or rendered unusable, as well as of the witness monuments or bench marks. Connecting courses and distances from the witness monuments or bench marks to the original must also be shown.

(iv) The project location must include the most current information pertaining to affected Federal lands as described under §4.81(b)(5).

(4) *Non-Federal lands.* For those lands within the project boundary not identified under paragraph (h)(3) of this section, the map must identify by legal subdivision:

(i) Lands owned in fee by the applicant and lands that the applicant plans to acquire in fee; and

(ii) Lands over which the applicant has acquired or plans to acquire rights to occupancy and use other than fee title, including rights acquired or to be acquired by easement or lease.

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18CFR Subpart I--Application for Preliminary Permit; Amendment and Cancellation of Preliminary Permit

§ 4.81 Contents of application.

Each application for a preliminary permit must include the following initial statement and numbered exhibits containing the information and documents specified: ...

(b) *Exhibit 1* must contain a description of the proposed project, specifying and including, *to the extent possible*:

(1) The number, physical composition, dimensions, general configuration and, where applicable, age and condition, of any dams, spillways, penstocks, powerhouses, tailraces, or other structures, whether existing or proposed, that would be part of the project;

(2) The estimated number, surface area, storage capacity, and normal maximum surface elevation (mean sea level) of any reservoirs, whether existing or proposed, that would be part of the project;

(3) The estimated number, length, voltage, interconnections, and, where applicable, age and condition, of any primary transmission lines whether existing or proposed, that would be part of the project [see 16 U.S.C. 796(11)];

(4) The total estimated average annual energy production and installed capacity (provide only one energy and capacity value), the hydraulic head for estimating capacity and energy output, and the estimated number, rated capacity, and, where applicable, the age and condition, of any turbines and generators, whether existing or proposed, that would be part of the project works;

(5) All lands of the United States that are enclosed within the proposed project boundary described under paragraph (e)(3) of this section, identified and tabulated on a separate sheet by legal subdivisions of a public land survey of the affected area, if available. If the project boundary includes lands of the United States, such lands must be identified on a completed land description form, provided by the Commission. The project location must identify any Federal reservation, Federal tracts, and townships of the public land surveys (or official protractations thereof if unsurveyed). A copy of the form must also be sent to the Bureau of Land Management state office where the project is located;

