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Ms. Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: Docket No. ADO4-4-000; Notice Requesting Applications for Panel Member List  
for Hydropower Licensing Study Dispute Resolution

Dear Ms. Salas:

Enclosed for your consideration is an application to be included on the list of resource experts willing to serve as a panel member in the study dispute resolution process of the Commission's hydropower integrated licensing process.

Please feel free to contact me at (206) 385-7610 if you have any questions regarding this application. Thank you for your consideration.

Sincerely,

James M. Lynch

0-2201  
Washington  
2004-10-19  
11:24  
11:24

## James M. Lynch

### *Law Practice*

Jim Lynch's practice focuses on natural resources and environmental law with an emphasis on the federal Endangered Species Act (ESA), National Environmental Policy Act and Federal Power Act. Jim advises a number of public utilities and industry associations concerning environmental compliance matters. Jim currently advises the Washington Forest Protection Association on environmental matters, including the State of Washington's pursuit of a programmatic habitat conservation plan under the ESA.

For the past five years, Jim has represented a large utility on the relicensing of its hydropower projects in Washington and Oregon. In this role he has drafted settlement agreements under the alternative licensing process and assisted in developing licensing strategies. Jim has represented the client before FERC in contested proceedings and has developed close working relationships with relevant federal and state resource agencies.

Jim routinely lectures on FPA issues, including licensing procedures and FPA requirements. He maintains close working relationships with FERC staff and directors, providing for direct lines of communication to agency decisionmakers.

### *Prior Experience*

Prior to practicing law, Jim served as a fishery biologist with the Federal Energy Regulatory Commission (FERC), Office of Hydropower Licensing, in Washington D.C. While with the Office of Hydropower Licensing, Jim reviewed license applications for adequacy, conducted FPA Section 10(j) meetings and negotiations, drafted license orders, prepared agency NEPA documents and oversaw contractor preparation of relevant agency documents.

Jim also served as a fishery biologist with the National Marine Fisheries Service (NMFS), Protected Resources Division, in Washington and Oregon. He served as NMFS' ESA Section 7 Consultation Coordinator prior to leaving the Agency.



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### *Education*

J.D. with Environmental Law Certificate,  
Northwestern School of Law of Lewis and  
Clark College, 1999

M.S., fishery management, University of  
Washington, 1993

Research Assistant, School of Fisheries,  
1991-93

B.S., biology and chemistry, Aquinas  
College, 1991

### *Admissions*

State bar of Washington

## James M. Lynch

Law clerk, National Oceanic and Atmospheric Administration, Office of General Counsel, Seattle, Washington (1998); law clerk, Department of the Interior, Regional Solicitor's Office, Natural Resources Division, Portland, Oregon (1997).

### *Professional Activities*

Member, Washington State Bar Association; member, Indian Law Section, Washington State Bar Association; certified associate fishery scientist, American Fisheries Society (1994).

### *Publications*

Chair, Regional ESA Forum, Seattle, WA (2001-2004); Chair, Regional Hydropower Forum, Seattle, WA (2003-2004); co-author, "The Habitat Approach: Implementation of Section 7 of the Endangered Species Act for Actions Affecting the Habitat of Pacific Anadromous Salmonids," National Marine Fisheries Service (1999).

### *Representative Hydropower Work*

A power company in the relicensing of its North Umpqua and Lewis River Hydroelectric Projects.

A power company in the implementation of a licensing settlement agreement.

A power company in rehearing proceedings before FERC concerning the licensing of its North Umpqua Hydroelectric Project.

A power company in the Ninth Circuit appeal of a project license.

A power company in a matter seeking damages and natural resource mitigation from an equipment failure at a dam.

## Summary of Qualifications

I. Technical expertise, including education and experience in each resource area and sub-area for which the applicant wishes to be considered.

A. Aquatic Resources, General.

I possess a Master's degree in fishery management from the University of Washington, and a Bachelor's degree in biology and chemistry from Aquinas College, located in Grand Rapids, Michigan. I also possess a Juris Doctor with an Environmental Certificate from the Northwestern School of Law of Lewis and Clark College, located in Portland, Oregon.

I possess over ten years of experience working as a fishery scientist and fishery technician for the Commission, the National Marine Fisheries Service (NMFS), the State of Michigan, and the State of Alaska. While at the Commission, I worked in the Office of Hydropower Licensing where I evaluated agency study requests, analyzed license applications for adequacy, and mediated discussions between applicants and natural resource agencies. While at NMFS, I served in the Agency's Office of Protected Resources where I coordinate status reviews under the Endangered Species Act, developed Agency listing notices and policies, and assisted in the development of technical papers concerning the life history requirements of salmonids. During my tenure with the States of Michigan and Alaska, I served as a field technician during which time I conducted field research, and implemented various study plans at the direction of Agency biologists.

B. Aquatic Resources, Instream Flows.

In addition to the expertise described above under I.A., I possess considerable training and experience evaluating instream flow studies as a result of my tenure as Commission staff in the Office of Hydropower Licensing. While at the Commission, I received extensive training in the use of Instream Flow Incremental Methodolgy (IFIM), and used this training to evaluate IFIM studies conducted by licensees and agency staff.

C. Aquatic Resources, Fish Passage.

In addition to the expertise described above under I.A., I possess considerable training and experience evaluating fish passage studies as a result of my tenure as Commission staff in the Office of Hydropower Licensing. While at the Commission, I received extensive training regarding the technical and physical elements of fish passage technology. Further, while representing private sector

utilities on relicensing issues, I have worked closely with Federal and state fisheries biologists to evaluate the need for passage, and to discern the engineering and other requirements necessary to insure safe and effective fish passage.

D. Aquatic Resources, Threatened and Endangered Species.

In addition to the expertise described above under I.A., I possess considerable training and experience regarding the application of the Endangered Species Act (ESA) in the hydropower arena. While at the National Marine Fisheries Service, I served as the Agency's Regional Section 7 consultation coordinator. In this capacity I oversaw development of agency consultation documents, including development of studies needed to insure agency actions complied with the ESA. I presently represent a number of private sector clients on ESA matters, including the Washington timber industry regarding the State of Washington's development of a comprehensive ESA compliance strategy for forested lands.

E. Terrestrial Resources, Threatened and Endangered Species.

In addition to the expertise described above under I.A. and I.D., I possess considerable experience evaluating and applying Endangered Species Act requirements to terrestrial species. I presently advise Alaska oil and gas companies on the import of the ESA for their exploration and development activities. I have likewise negotiated complex settlement agreements under the Federal Power Act to address ESA-listed terrestrial species. I possess considerable training and experience development scientifically- and legally-defensible study plans and objectives to insure compliance with ESA requirements.

II. Knowledge of the effects of construction and operation of hydroelectric projects

I possess a Master's degree in fishery management from the University of Washington. My thesis research focused on the effects of Columbia River dams on salmonid life history requirements and salmonid predator populations. During the course of this research, I gained extensive knowledge regarding the effects of hydroelectric project operations and construction on fish species.

I previously served as Commission staff in the Office of Hydropower Licensing. During my tenure at the Commission, I evaluated the effects of hydropower projects on aquatic environments, and received extensive training on this subject matter.

I currently advise private utilities in the Pacific Northwest on Federal Power Act, Endangered Species Act, and related issues. Through my representation of these utilities I have gained additional insights on the technical aspects of project operations, and have as well worked closely with agency scientists to address concerns regarding potential adverse impacts.

- III. Working knowledge of laws relevant to expertise, such as: the Fish and Wildlife Coordination Act, the Endangered Species Act, the Clean Water Act, the Coastal Zone Management Act, the Wild and Scenic Rivers Act, the Federal Power Act or other applicable laws.

As a private sector attorney I presently advise large public entities and private companies on a range of environmental laws, including the Endangered Species Act (ESA), Federal Power Act, Clean Water Act, and National Environmental Policy Act. For the past ten years, I have worked within the Federal government and on behalf of private sector clients to implement compliance strategies under the ESA, and have assisted Federal agencies, including the National Marine Fisheries Service, in developing policies, regulations, and guidelines to implement the ESA. During my tenure at the Commission, I obtained practical experience applying Federal environmental laws in the context of Federal Power Act proceedings.

- IV. Ability to promote constructive communication about a disputed study.

As a former Federal scientist and policy adviser, I possess a unique understanding of agency goals, mandates and requirements, as well as the scientific realities of fishery and wildlife management. I have maintained close working relationships with Federal and state resource agencies involved in hydropower licensing issues. I have likewise been successful in negotiating studies and licensing requirements with Federal and state agencies on behalf of private utilities. My proven track record of negotiated agreements, and continued implementation of controversial settlement agreements, provides a strong indication of my effectiveness to promote constructive communication.

## References

John Sample, Senior Hydropower Attorney  
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Portland, OR 97232-2135  
(503) 813-6688

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National Marine Fisheries Service  
500 Oregon Street, Suite 500  
Portland, OR 97232  
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Jeff Leppo, Attorney  
Stoel Rives LLP  
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