Tri-Dam Shoreline Management Analysis

2006 FERC License vs. 2015 Approved SMP vs. 2026 Draft SMP and Adequacy Assessment

Including permit vagueness, grandfathered facilities, fee authority, invasive vegetation, mussel-prevention measures, and FERC compliance findings

EXECUTIVE CONCLUSION

The record supports a substantial concern that Tri-Dam has progressively broadened its interpretation of shoreline-management authority beyond the relatively specific delegation contained in the 2006 FERC license. The 2026 proposal would formalize that broader approach through recurring fees, mandatory re-permitting of grandfathered facilities, expanded enforcement, administrative cost recovery, broad discretionary authority, and substantive requirements maintained outside the FERC-approved SMP. At the same time, FERC has formally found Tri-Dam in violation of Article 405 for failures involving vegetation reporting, monitoring, control, staff training, outreach, and implementation of management actions. The 2026 review therefore presents an opportunity for FERC to clarify the limits of Tri-Dam's delegated authority and require a more transparent, objective, license-based SMP rather than simply codifying past administrative practice.

Lake Tulloch Stakeholders/Property Owners

Prepared from the source documents listed at the end of this report

1. Core Comparison

Issue	2006 FERC License	2015 Approved SMP	2026 Proposal / Key Concern
Scope of authority	Article 413 delegates authority for certain types of use and occupancy within Project lands and waters, subject to project-purpose protections and continuing supervision.	Implements a permit program for shoreline development and recognizes specific facility categories and standards.	Uses broader language such as "sole discretion," expanded monitoring/enforcement, and continuing administration. FERC should clarify the outer limits of delegated authority.
Fees	Article 413 permits a reasonable fee to cover the licensee's costs of administering the permit program.	Defines fees as amounts intended to help offset permit-processing and reservoir-use permit costs; also allows broader program cost recovery language.	Adds annual fees, grandfathered-facility fees, modification fees and enforcement cost recovery, with detailed fee schedules outside the SMP. This raises a direct question whether recurring program-wide administration exceeds Article 413's cost-based permit language.
Grandfathered facilities	The 2006 license does not create a five-year expiration, annual fee, or blanket mandatory re-permitting deadline for existing lawful facilities.	Legally existing grandfathered facilities may remain and be maintained or repaired; current standards apply upon replacement, expansion or other material alteration.	Requires grandfathered facilities to obtain new permits within five years or risk classification as unauthorized encroachments, removal and restoration. This converts grandfathering into temporary tolerance.
Permitting detail	Article 413 allows FERC to require Tri-Dam to file its standards, guidelines and procedures and to require modification of them.	Places substantive application steps and criteria inside the FERC-approved SMP.	Moves significant application detail and fee schedules to Tri-Dam's website so they can be changed more efficiently at a local level. This reduces the permanence and transparency of the FERC-approved record.
Resource obligations	Article 405 places vegetation-management obligations on the licensee, including control/eradication measures, mapping, monitoring, training, coordination and outreach.	Coordinates the SMP with separate vegetation and resource-management plans.	The Adequacy Assessment acknowledges resource-management duties remain part of the FERC license, yet the revised SMP uses invasive-species concerns to justify additional owner restrictions and cost recovery.
Enforcement	Article 413 allows lawful corrective action for actual violations and noncompliant permitted uses.	Contains enforcement tools including stop-work notices, removal, increased fees and litigation.	Expands inspections, cost recovery, permit revocation, denial of future approvals, removal/restoration, attorney fees and other enforcement mechanisms. FERC should require objective standards and meaningful appeal rights.

2. The Adequacy Assessment Exposes the Central Issue

Tri-Dam's Adequacy Assessment begins with an important acknowledgment: the SMP gives Tri-Dam discretion to permit certain types of use and occupancy without prior FERC approval, while activities outside that authority require Commission approval under Article 413. That formulation is narrower than the common shorthand that Tri-Dam "controls everything below 515 feet." *[Adequacy Assessment, p. 1]*

Tri-Dam's current Encroachment Permit Instructions, however, state much more broadly that FERC requires Tri-Dam to review and approve all requests for excavation, construction, installation and

modification of any facilities within the project boundary. That difference deserves direct FERC clarification because the permit sheet states a much broader proposition than the license text itself. [Encroachment Permit Instructions, p. 1]

> *Where precisely in the 2006 license does FERC require Tri-Dam approval of every repair, modification, facility, structure or activity below the 515-foot contour, irrespective of its nature or effect?*
> **Source: Recommended question to FERC**

3. The Grandfathered-Facility Rationale Contains an Internal Contradiction

On page 3 of the Adequacy Assessment, Tri-Dam states that many grandfathered facilities have supposedly reached the end of their useful lives and says it believes landowners are modifying or replacing facilities without permit applications because Tri-Dam is not receiving a commensurate number of applications. [Adequacy Assessment, p. 3]

Yet page 4 says the 2015 SMP lacks a mechanism to maintain current shoreline facility inventories, permit records and ongoing compliance information. Tri-Dam therefore proposes new administrative tools to maintain those records. [Adequacy Assessment, p. 4]

> **If Tri-Dam acknowledges that it does not have an adequate current inventory and compliance-record system, FERC should require objective evidence before accepting the conclusion that grandfathered facilities are broadly at the end of their useful lives or are being illegally replaced.**

- Number and location of grandfathered facilities.
- Permit history and approximate age of each facility or facility class.
- Documented structural deficiencies or safety concerns.
- Documented unauthorized modifications or replacements.
- Navigation conflicts or site-specific environmental impacts.
- Actual number of violations identified during the last ten years.
- Evidence demonstrating that the existing grandfathering framework has failed.

4. Grandfathering: 2015 Protection vs. 2026 Mandatory Re-Permitting

The 2015 SMP expressly recognizes legally installed pre-February 16, 2006 facilities as grandfathered. It further states that these structures may be maintained or repaired even when they do not conform to current guidelines; current standards apply when the facility is replaced, expanded or otherwise altered. [2015 SMP, pp. 1-1 to 1-7 and 4-4]

The 2026 draft changes the practical meaning of grandfathering. It creates a five-year compliance period, requires each grandfathered facility to apply for and obtain an Encroachment Permit, and provides that a facility that does not obtain approval may become an unauthorized encroachment subject to removal and restoration. [2026 Draft SMP, Sec. 4.1.5]

2015 APPROACH	2026 PROPOSED APPROACH
Lawful existing facility remains grandfathered. Maintenance and repair are allowed. Current standards are triggered by replacement, expansion or other material alteration.	Existing grandfathered facility receives a five-year grace period, must obtain a new permit, and may face unauthorized-encroachment status and removal if approval is not obtained.

> *What provision of the 2006 license requires previously lawful grandfathered facilities to surrender their grandfathered status and obtain new permits merely because Tri-Dam has decided to conduct a reservoir-wide compliance program?*
> **Source: Recommended question to FERC**

5. Fee Authority: Article 413 vs. Expanding Program-Wide Cost Recovery

Article 413 is relatively specific: Tri-Dam may establish a permit program that may be subject to a reasonable fee to cover the licensee's costs of administering the permit program. The same article reserves FERC's right to require Tri-Dam to file its standards, guidelines and procedures and to require those standards to be modified. [2006 FERC License, Article 413]

The Adequacy Assessment proposes a broader concept. Tri-Dam says it needs cost recovery for ongoing shoreline administration and compliance activities, while detailed administrative procedures, forms and fee schedules would be maintained outside the SMP and administered locally by Tri-Dam. [Adequacy Assessment, p. 4]

The 2026 draft then adds recurring and expanded fee categories, including annual private-facility fees, annual commercial fees, grandfathered-facility registration and annual fees, modification fees, and enforcement-related cost recovery. [2026 Draft SMP, Sec. 4.8 and Sec. 5]

> **The license phrase "costs of administering the permit program" and the proposed phrase "ongoing shoreline administration and compliance activities" are not necessarily equivalent. FERC should decide where the line is.**

> *Does Article 413 authorize Tri-Dam to use permittees and existing shoreline owners as a funding source for general shoreline-management administration, monitoring and compliance activities - or only to recover reasonable costs attributable to administration of the permit program?*
> **Source: Recommended question to FERC**

6. Moving Controlling Requirements to a Website Reduces Transparency

The Adequacy Assessment expressly says the permitting process would be more efficiently managed on Tri-Dam's website and that placing detailed permitting procedures outside the SMP would allow changes to be made more efficiently at a local level. [Adequacy Assessment, p. 2]

The 2015 SMP, by contrast, places substantive application requirements in the FERC-approved document itself, including project description, users, surveyed property limits, 510-foot and 515-foot contours, engineered site plans, project location, and outside permit information. [2015 SMP, Sec. 4.1.1]

Efficiency does not answer the transparency issue. Administrative forms can live online, but controlling eligibility standards, application criteria, fee categories, appeal rights, variance standards and substantive review requirements should remain in the FERC-approved SMP or in a dated appendix incorporated into the approval order.

7. The Current Permit Instructions Demonstrate Why Objective Standards Are Needed

Tri-Dam's current three-page Encroachment Permit Instructions repeatedly use open-ended language, including:

- "as a minimum" for application contents;
- other permits "may" be required depending on the nature and scope of the project;
- review for conformance with "Tri-Dam guidelines" without a project-specific standards matrix;
- a performance bond/deposit without a stated formula in the instruction sheet;
- compliance with "all project requirements";
- periodic inspection for "any other Tri-Dam requirements" noted in a particular permit.

The same sheet requires licensed survey information and an engineer's stamp as part of the minimum application package without clearly distinguishing when those requirements are necessary for a minor repair versus a significant new structure. [Encroachment Permit Instructions, pp. 1-2]

The 2026 revision should reduce this ambiguity, not expand it. A permit matrix should state, for each common project, whether a Tri-Dam permit is required, why it is required, what plans are necessary, whether a survey or engineer is required, outside agency triggers, fee, deposit, inspection requirements, review criteria and expected processing time.

8. Tri-Dam Acknowledges That Resource-Management Obligations Remain Its License Obligations

The Adequacy Assessment makes an important admission: whether or not a resource plan is summarized in the SMP, Tri-Dam's obligations remain part of the FERC license. [Adequacy Assessment, p. 2]

That statement is consistent with Article 405. The license requires the vegetation-management plan to include staff training, agency coordination, specific measures to control or eradicate terrestrial and aquatic noxious weeds, landowner education, visitor education, and identification, mapping, management and monitoring of noxious-weed populations and important habitat. [2006 FERC License, Article 405]

Moving Article 405 details out of the SMP does not move the Article 405 responsibility to property owners. Property-owner cooperation can supplement the licensee's program; it cannot replace the licensee's federally required management obligations.

9. FERC Has Formally Found Tri-Dam in Violation of Article 405

This is no longer solely a property-owner allegation. In its February 2026 violation letter, FERC staff determined that South San Joaquin Irrigation District and Oakdale Irrigation District, collectively Tri-Dam, are in violation of Article 405. [FERC P-2067-062 violation letter, pp. 2, 15]

- Failure to file required Vegetation Management Plan reports.
- Failure to complete required aquatic nuisance vegetation monitoring.
- Failure to complete required aquatic nuisance vegetation control.
- Failure to complete required project-staff training.
- Failure to implement required public outreach and education measures.
- Documented increase in aquatic nuisance vegetation that FERC states has degraded the lake for homeowners and recreational users, without implementation of management actions sufficient to achieve the Plan objectives.

FERC further stated that Tri-Dam will remain in violation until the specified requirements are completed and that the violations will become part of the Project's compliance history for consideration in future Commission action. [FERC violation letter, p. 15]

10. FERC Found No Evidence of Approved Vegetation-Control Measures Being Implemented

FERC's review is particularly significant because it found no evidence that Tri-Dam implemented approved control measures on lands within the project boundary despite the reported increase in aquatic nuisance vegetation, and no evidence of coordination with adjacent agencies to implement those approved control measures. [FERC violation letter, pp. 11-12]

FERC also found deficiencies and inconsistencies in the public-outreach and permit information surrounding approved methods such as DASH, hand-pulling and mechanical harvesting. The record therefore supports a direct concern that property owners were being asked to navigate an unclear control process while Tri-Dam itself had not implemented the full approved management program.

11. FERC Rejected the Concept of Treating Degraded Conditions as the New Baseline

FERC found that establishing current conditions as the new baseline would amount to accepting degraded conditions compared with when the plan was originally ordered and would be inconsistent with the plan objective of preventing the introduction and spread of invasive aquatic vegetation. [FERC violation letter, p. 14]

> **This supports a broader principle relevant to the 2026 SMP: Tri-Dam should not be permitted to allow a resource-management problem to deteriorate for years and then use the deteriorated condition itself as the justification for new property-owner fees, restrictions or compliance burdens without first addressing the licensee's own failures.**

12. The Scale of Aquatic Vegetation Is Documented

Tri-Dam's 2024 survey reported nuisance aquatic plant species at 145 locations comprising approximately 752,968 square feet of plant beds. FERC noted that the record documented proliferation of aquatic weeds, increased square footage of plant beds and a previously unreported invasive species. [FERC violation letter, pp. 9-10]

That makes the enforcement asymmetry especially relevant: the 2026 SMP seeks materially stronger monitoring and enforcement authority over shoreline owners at the same time FERC has documented inadequate implementation of Tri-Dam's own resource-management duties.

13. Mussel Prevention: Legally Separate, but Highly Relevant to the Fairness Analysis

Tri-Dam's Adequacy Assessment states that its invasive-mussel prevention measures are implemented as an off-license program and were updated in April 2025. The 2026 draft nevertheless proposes using aquatic invasive species risk to restrict new private launches, revise terms for existing launches, and potentially phase out existing launch authorizations. [Adequacy Assessment, p. 3; 2026 Draft SMP, Sec. 4.7]

Because Tri-Dam labels the mussel program as off-license, the best argument is not that Article 405 necessarily governs mussel prevention. The stronger point is one of evidence, proportionality and consistency: before eliminating or materially restricting existing private launch rights, Tri-Dam should demonstrate the actual incremental AIS risk, reservoir-wide inspection and containment procedures, treatment of boats that remain exclusively at Tulloch, and why less restrictive measures are inadequate.

14. The Decontamination-Station Record Raises Credibility and Implementation Questions

FERC's violation letter records a complaint stating that Tri-Dam representatives expressed uncertainty about why an approximately $200,000 decontamination station had not been used. That dollar amount originated in the stakeholder complaint and should not be presented as an independent FERC factual finding. [FERC violation letter, p. 10]

Separately, FERC itself noted that Tri-Dam reported securing funding, purchasing and installing a boat decontamination station, that the station was unused, and that it was unclear whether it would be used in the future. FERC also identified inconsistencies in vessel self-inspection information. [FERC violation letter, p. 12]

> **Tri-Dam therefore should not rely on invasive-mussel risk as a general justification for phasing out private launches without demonstrating that its own reservoir-wide containment program is coherent, operational, consistently applied and supported by evidence.**

15. Enforcement Asymmetry Should Be Addressed Before FERC Approves Expanded Owner Enforcement

The 2026 draft proposes stronger inspections, permit suspension and revocation, removal and restoration, enforcement fees, cost recovery, denial of future approvals, and legal action. [2026 Draft SMP, Sec. 5]

At nearly the same time, FERC informed Tri-Dam that it would remain in violation of Article 405 until required corrective work was completed. FERC required missing reports within 60 days and a plan and schedule to implement Article 405 requirements within 120 days, expressly referring to past failures, repeated extensions and expansion of aquatic nuisance vegetation. [FERC violation letter, pp. 15-16]

> *Before FERC approves a substantially expanded enforcement regime against property owners, FERC should determine whether Tri-Dam itself has satisfied the outstanding compliance directives imposed upon it as licensee. Regulatory accountability should operate in both directions.*
> **Source: Recommended position**

16. How to Frame the Overreach Concern

The strongest formulation is not simply that Tri-Dam has "gotten away with it." A more defensible and evidence-based formulation is:

> *Over time, Tri-Dam appears to have progressively expanded its interpretation of its shoreline-management authority beyond the relatively specific delegation contained in Articles 411 and 413. The 2026 proposal would formally institutionalize that broader interpretation through recurring fees, mandatory re-permitting, expanded enforcement, administrative cost recovery, broad discretion and requirements maintained outside the FERC-approved SMP. This proceeding provides FERC an opportunity to clarify the limits of Tri-Dam's delegated authority and return the SMP to a transparent, objective and license-based framework.*
> **Source: Recommended FERC submission language**

17. Specific Corrections FERC Should Require in the 2026 SMP

1. Define the limits of Tri-Dam's jurisdiction. Identify what requires an encroachment permit and the specific Article 411/413 basis for each project category.
2. Protect lawful grandfathering. Existing lawful facilities should remain grandfathered unless materially modified, abandoned, unsafe, environmentally harmful, or demonstrably interfering with Project purposes.
3. Keep controlling rules in the FERC-approved SMP. Fee categories, substantive standards, application requirements, timelines, variance criteria and appeal rights should not be alterable solely through website changes.
4. Limit fees to documented authority. Require a cost-of-service study showing how each fee is reasonable and what actual permit-administration cost it recovers.
5. Separate permit administration from general license obligations. Article 405 resource management, environmental compliance, general shoreline monitoring and correction of Tri-Dam's prior noncompliance should not simply be shifted to property owners through permit or annual fees.
6. Require objective evidence before expanding restrictions. Do not approve a reservoir-wide grandfathered-facility compliance sweep, boat-storage prohibition, or private-launch phase-out without documented safety, navigation, operational or environmental evidence.
7. Provide meaningful review and appeal. Permit denials, enforcement decisions and removals should identify the exact license/SMP provision, evidence relied upon, cure rights and a meaningful appeal path.
8. Address Tri-Dam's compliance status first. FERC should review Tri-Dam's response to the February 2026 Article 405 violation and its 60-day/120-day corrective requirements before approving additional environmental enforcement authority or owner costs tied to resource protection.

18. Recommended Central Statement for an eComment on FercOnline immeditately regardless of the outcome of this meeting. https://ferconline.ferc.gov/FERCOnline.aspx

The purpose of the 2026 SMP review should not be to expand Tri-Dam's authority or create a new revenue mechanism simply because Tri-Dam has administered the shoreline in a particular manner for the last ten years. It should be to determine whether the SMP faithfully implements the authority and obligations FERC actually established in the 2006 license.

This distinction is particularly important because Tri-Dam now proposes a new SMP goal to “adequately fund the SMP program” through fees associated with implementation, permitting, compliance and enforcement. Yet the fee authority actually stated in Article 413 is considerably narrower: it permits a “reasonable fee to cover the licensee's costs of administering the permit program.” The license does not state that shoreline property owners are responsible for funding Tri-Dam's overall Shoreline Management Program, general compliance department, reservoir-wide monitoring, environmental programs, enforcement administration, or the performance of separate resource-management obligations imposed on Tri-Dam as the FERC licensee.

Those license obligations are conditions of Tri-Dam's authority to operate the Tulloch Hydroelectric Project. Tri-Dam receives the substantial economic benefit of operating and generating revenue from that federally licensed project; compliance with the license is part of the cost of exercising that privilege. Where FERC intended to permit Tri-Dam to recover costs directly from shoreline applicants, Article 413 expressly authorized reasonable permit-administration fees. That should not be interpreted as an unlimited authorization to convert shoreline owners into a funding source for Tri-Dam's general license responsibilities.

This issue is even more significant given FERC's February 2026 determination that Tri-Dam itself is in violation of Article 405. FERC found that Tri-Dam failed to perform required vegetation monitoring and control, staff training, outreach and reporting, and documented increasing aquatic nuisance vegetation that degraded Lake Tulloch for homeowners and recreational users without implementing the required management actions.

Tri-Dam therefore should not be permitted to use the consequences of its own failure to perform federally imposed resource-management obligations as justification for expanding fees, enforcement powers and financial responsibilities imposed upon shoreline owners. Before approving the 2026 SMP, FERC should require Tri-Dam to distinguish clearly between (1) reasonable, documented costs directly attributable to processing an individual shoreline permit, which Article 413 expressly contemplates, and (2) the cost of operating the project, administering the SMP generally, maintaining compliance with the license and correcting Tri-Dam's own past failures, which are fundamentally obligations of the licensee.

Where past shoreline practices have become vague, discretionary or broader than the authority actually granted by FERC, the 2026 SMP should correct those practices—not codify them, expand them, or create recurring revenue streams from the property owners subject to them.

Source Documents Reviewed

2006 FERC License: South San Joaquin Irrigation District and Oakdale Irrigation District, Tulloch Hydroelectric Project No. 2067-020, Order Issuing New License, 114 FERC 62,162 (Feb. 16, 2006). Key provisions reviewed: Articles 405, 411 and 413.

2015 Shoreline Management Plan: Tri-Dam Project, Tulloch Reservoir Shoreline Management Plan, May 2015, later approved with modifications by FERC in September 2016.

2026 Revised Draft SMP: Tri-Dam Project, Tulloch Reservoir Shoreline Management Plan 2026 Update - Revised Draft for Review, May 2026.

2026 Adequacy Assessment: Tri-Dam Project, Tulloch Shoreline Management Plan Adequacy Assessment, draft, FERC Project No. 2067.

Encroachment Permit Instructions: Tri-Dam Project, Tulloch Reservoir Encroachment Permit Application Information and Instructions, 3 pages.

FERC Article 405 Violation Letter: Federal Energy Regulatory Commission, Project No. 2067-062, Vegetation Management / Aquatic Nuisance Vegetation Management - Notification of Violation of License Requirements, February 3, 2026.

Analytical note: This report distinguishes between direct FERC findings, Tri-Dam statements, stakeholder allegations recorded by FERC, and analytical conclusions. For example, the approximately $200,000 decontamination-station figure appears in a complaint summarized by FERC, while FERC independently confirmed that Tri-Dam reported purchasing and installing a station that remained unused and whose future use was unclear.