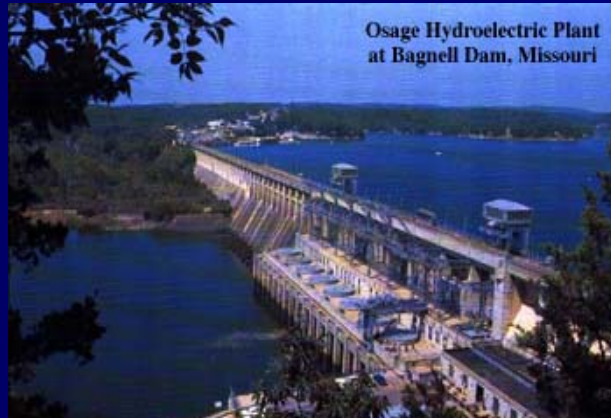


Ocean Energy in the US: Applicable Law, Barriers to Development

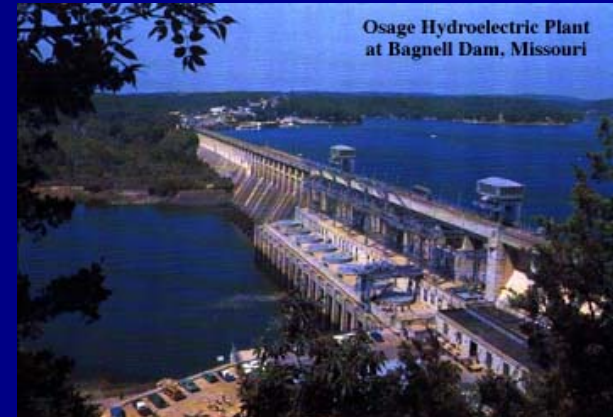
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Overview: What's Wrong With This Picture?



Comparative Licensing Times for Energy Projects

- Licensing time for 900 MW Hydro Project (St. Lawrence Project) – 2 years from submission of application to license issuance plus @ 1-2 years pre-application procedure (<http://www.stl.nypa.gov/>)
- Licensing time for renewal of nuclear power plant license for 2 @840 MW units (Calvert Cliffs) - @ 22 months from submission of application to NRC to license issuance (<http://www.nrc.gov/reactors/operating/licensing/renewal/applications/calvert-cliffs.html>)



Comparative Licensing Times (continued)

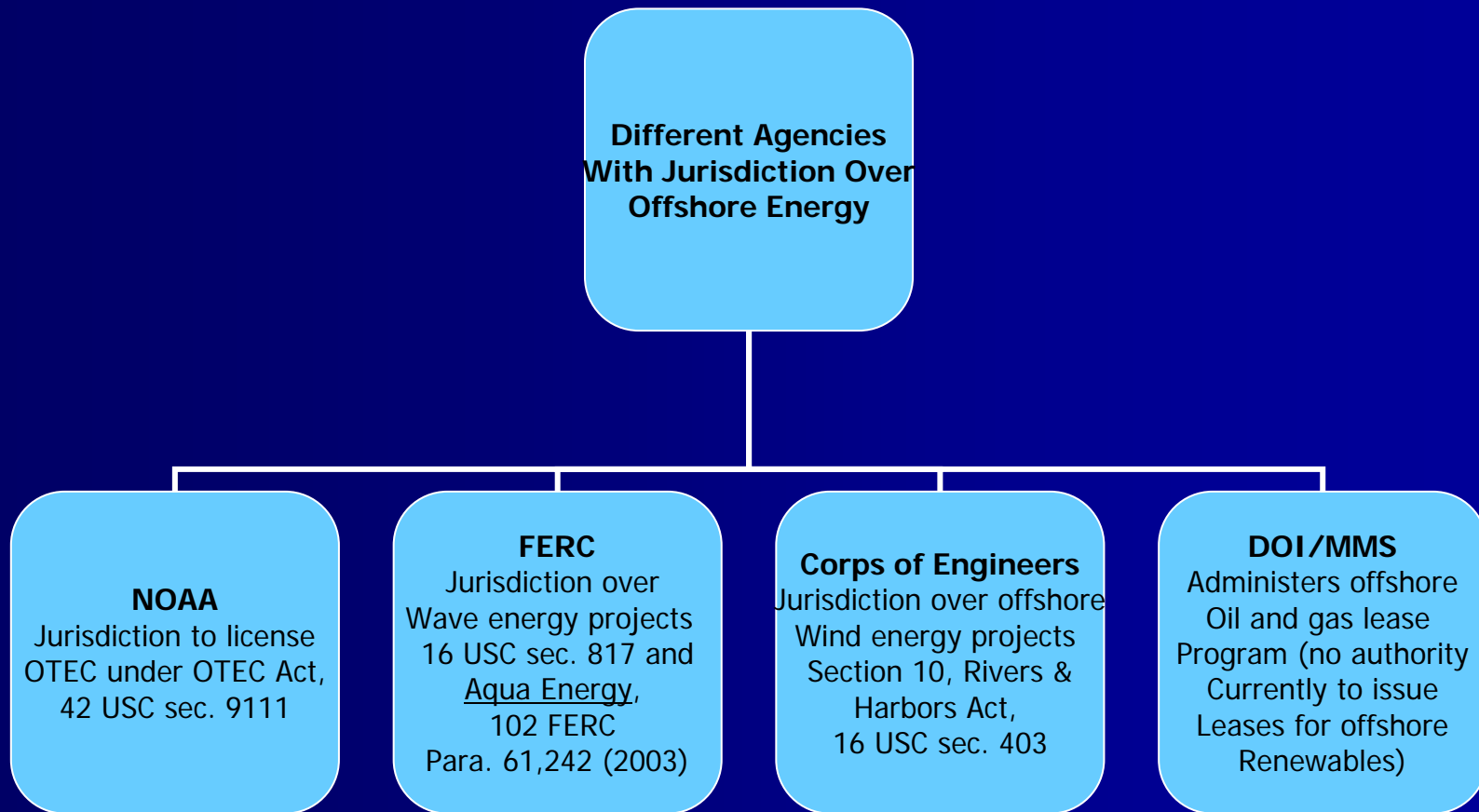
- Time for issuance of siting permit (CPNC) for 580 MW natural gas fired electric plant (Brookhaven Plant, NY) - @ 14 months from submission application to issuance (<http://www.dps.state.ny.us/brookhaven.htm>)
- Time for issuance of FERC license (and related authorizations) for 1 MW wave energy project - - @ 12 months from approval of alternative license procedure and still counting....



Regulatory Barriers to Ocean Energy in the US

- Confusion and disparity as to applicable licensing agency
- No exemptions for pilots or prototypes
- No certainty as to property rights
- Lack of clarity as to whether benefits afforded to other renewables also apply to ocean energy

State of Disarray: An Agency for Every Ocean Technology



The Result of Disarray Is...

- Applicants don't always know where to go – and even the agencies are not aware of each others' jurisdiction (Corps and FERC)
- Agencies w/jurisdiction may not be properly geared for processing applications (Corps and offshore wind; FERC and wave energy)
- Success of technologies will hinge on the extensiveness of a permitting process and not the merits
- No central repository for data – which leads to duplication of effort

No Exemptions for Pilots Or Prototypes

- Even if developer can figure out the right agency, it may have to go through a regulatory maze intended for larger plants owned by utilities and funded by ratepayers
- None of the regulatory processes (except defunct OTEC program) offer exemptions for pilots or small sized prototypes. Developers have to spend money on regulatory requirements rather than improving and optimizing technology.

Can You Get Requisite Property Rights?

- Developers can secure property rights for projects located on state submerged lands (e.g., up to 3 miles offshore) or through federal permit for use (e.g., NOAA permit for use of sanctuary)
- But, for projects on OCS, DOI has no authority to issue leases for renewable development. At some point, developers need property interest for licenses.
- Property rights not so much an issue at this stage for ocean projects (contrast offshore wind) – but need to be resolved at some point.

Can Wave Qualify for Renewable Programs?

- State and federal programs exist to encourage renewable development – but wave isn't always expressly identified.
- As a result, wave may receive fewer renewable benefits than other renewables.

Recommendations: Most Important Short Term

- Implement some kind of pilot program to start getting wave energy projects into the water with minimum delay. Can be administered by one single agency – or even by disparate agencies w/regulatory authority. Pilot authorizations can be for shorter durations or smaller projects.

Recommendations: Longer Terms

- Select (or create) one agency with licensing authority over all ocean renewables
- Resolve matter of property rights for renewables on OCS
- Allow ocean energy to qualify for benefits extended to other renewables
- See also Ocean Commission Preliminary Report (www.oceancommission.gov)