Hells Canyon Case Study
FPA Section 4(e) Conditions and BAAJA

Federal land agencies attached conditions to Hells Canyon that reach **well beyond the project's effects**; the Bipartisan American Affordability and Jobs Act (BAAJA) limits them to those **reasonably related to the effects of the project**.[1]

The Forest Service says it **"may rely on broader purposes than those contained in the original authorizing statutes."**[2]

Red light: not reasonably related to project effects

About $932,000 a year[3]

Enhancement plans for 15 recreation sites and trails off the project (Interior 9 to 14, 16, 17; Forest Service 13 to 17, 20, 28)[4]
About $412,400 a year, led by a $152,500 a year Deep Creek stairway plan. Staff found no direct nexus to project effects.[3,5]

Plans stretched to lands off the project (Forest Service 3, 12, 18, 24; Interior 6)[4]
Fire, recreation, maintenance and scenery plans extended to sites, roads and lands outside the project.

Road work and law enforcement (Interior 3, 4, 19; Forest Service 12)[4]
Includes an Olds Ferry Road improvement plan. Staff: "law enforcement is an agency responsibility."[6]

Weed control (Forest Service 7)
$243,300 a year, though staff found the project's role "very small" next to 100 years of overgrazing.[3,7]

Species management beyond affected species (Forest Service 8)
$240,900 a year. Studies show species such as peregrine falcon are "not affected by the project,"[8] and the plan adds species listed later.[9]

Yellow light: a project link, but other significant problems

$19.15 million sandbar fund (Forest Service 4)
The result of a 2024 settlement over earlier 4(e) terms. Sediment loss below the dam is a project effect, but the money goes to the Forest Service, which FERC cannot oversee.[10]

$5.651 million for tribal staff time and travel (Forest Service 25)
Tied to historic sites at the project, but pays for participation rather than addressing an effect.[4]

Open-ended authority to add conditions later (Forest Service 27)
Lets the Forest Service revise or add conditions after the license is issued.[11]

Green light: tied to project lands and operations

Habitat land to offset **reservoir operations**, **reservoir levels and boat launches**, **litter and sanitation** at project sites, and upkeep of the **project powerline**.[3]

Therefore, the Senate should:

1. Support **Section 2232** of BAAJA, limiting 4(e) conditions to those reasonably related to project effects.

What FERC Staff Found and Must Adopt Anyway

26 of 42
land agency conditions FERC staff did not recommend in full, but must adopt regardless[3,12]

$19.15M
sandbar fund paid to the Forest Service, which FERC has no authority to oversee[10]

$2.1M a year
of the conditions' $2.8 million annual cost sits in conditions staff did not recommend in full[3]

All 47 Are Mandatory. Staff Only Recommended 16 in Full.[3]



- **18** not recommended by staff
- **8** recommended only in part
- **16** recommended in full
- **5** administrative or merged

All 47 go into the license regardless.[12]

What Staff Found, and What BAAJA Requires

Summary sources: notes 3, 5, 12

FERC staff recommended against all or part of 26 of 42 land agency conditions for Hells Canyon, often for lack of any link to project effects, yet the law requires FERC to include every one.

	IN THE HELLS CANYON RECORD	BAAJA SEC. 2232
1	**No link to the project's effects.** Staff found "no direct nexus between non-project recreation sites owned and operated by Forest Service and BLM and project-related effects."[5]	Conditions must be **reasonably related to the effects of the project**.[1]
2	**Agency duties shifted to the licensee.** Staff: "law enforcement is an agency responsibility," and county and state roads outside the project are not the licensee's to maintain.[6]	Duties the project does not create fall outside the test.[1]
3	**Problems the project did not cause.** A $243,300 a year weed program, though staff found the project's role "very small" next to 100 years of overgrazing.[3,7]	Conditions in the region the project did not create fall outside the test.[1]
4	**FERC must adopt them anyway.** Even conditions staff did not recommend "would be included as requirements in any new license."[12]	Only conditions that pass the test reach the license.[1]

Therefore, the Senate should:

1. Support **Section 2232** of BAAJA, limiting 4(e) conditions to those **reasonably related to project effects**.[1]

NHA National Hydropower Association | NHA eLibrary NATIONAL HYDROPOWER ASSOCIATION

References

Sources for the numbered claims on **pages 1 and 2**, with the document and page for each.

Final SEIS: FERC, Final Supplemental Environmental Impact Statement, Hells Canyon Hydroelectric Project (P-1971), filed Sept. 4, 2026, accession 20260904-3009. Appendix pages (A to X) refer to the appendices volume and "main volume" pages to the main volume, both PDF page numbers, with printed labels in parentheses. Costs are staff's annualized estimates in 2025 dollars.

BAAJA summary: Bipartisan American Affordability and Jobs Act of 2026, Section-by-Section Summary (Sept. 30, 2026). All FERC records were retrieved through the NHA eLibrary.

PAGE 1 SOURCES

1. BAAJA summary, Sec. 2232, p. 18.
2. Final SEIS, Appendix S, p. 916 (S-1), Forest Service modified 4(e) conditions, Oct. 21, 2024.
3. Final SEIS, Appendix D, Table 5.3-1, pp. 481–485 (D-196 to D-200). NHA tally: 47 conditions (19 Interior, 28 Forest Service); 5 administrative or merged; of the other 42, staff recommended 16 in full, 8 in part and 18 not at all. Cost totals are NHA sums of staff's figures.
4. Final SEIS, Appendix W, pp. 1047–1048 (W-36 to W-37), mandatory conditions not recommended by staff.
5. Final SEIS, Appendix K, p. 669 (K-86).
6. Final SEIS, Appendix D, Table 5.3-1, p. 481 (D-196), staff's reasons for Interior 3 and 4.
7. Final SEIS, Appendix G, p. 537 (G-20).
8. Final SEIS, main volume, p. 201 (175).
9. Final SEIS, Appendix K, p. 645 (K-62).
10. Final SEIS, Appendix W, p. 1047 (W-36) ($19.15 million fund); Appendix S, p. 947 (S-32) (funding schedule); Appendix K, p. 586 (K-3) (the Commission "has no jurisdiction over the Forest Service"); Appendix E, p. 494 (E-3) (Oct. 23, 2024 settlement with 28 modified final 4(e) conditions).
11. Final SEIS, Appendix D, Table 5.3-1, p. 485 (D-200).

PAGE 2 SOURCES

12. Final SEIS, Appendix W, p. 1047 (W-36): all mandatory conditions, including those not recommended by staff, "would be included as requirements in any new license."

RATINGS NOTE

13. Final SEIS, Appendix E, p. 501 (E-10): NMFS's combined biological opinion is due by Oct. 23, 2026.

About These Ratings

Ratings on page 1 are NHA's assessment of each condition against BAAJA Sec. 2232's test, that 4(e) conditions be reasonably related to the effects of the project, using FERC staff's own findings. The grid on page 2 shows staff's recommendations, not NHA's ratings. The biological opinion for the project was not yet issued when this sheet was prepared; its findings may affect the species rating.[13] The 41,747 acres of land acquisition cited elsewhere is an Interior Section 10(j) recommendation, not a 4(e) condition, and is not rated here.