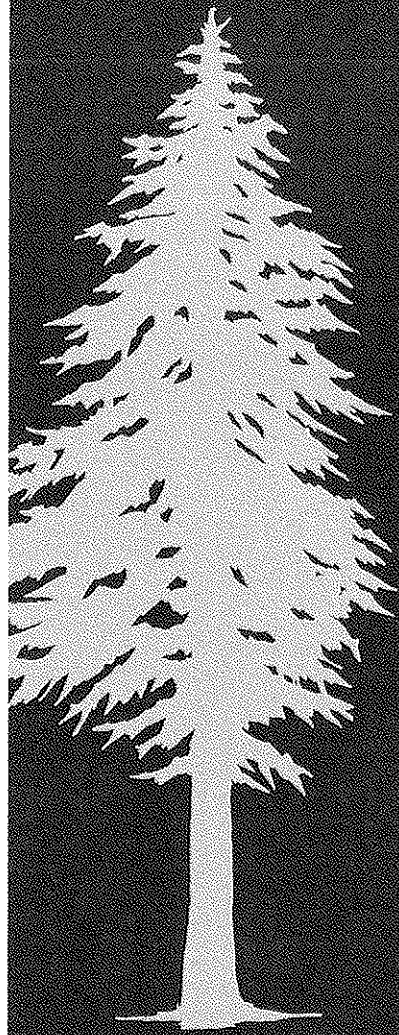
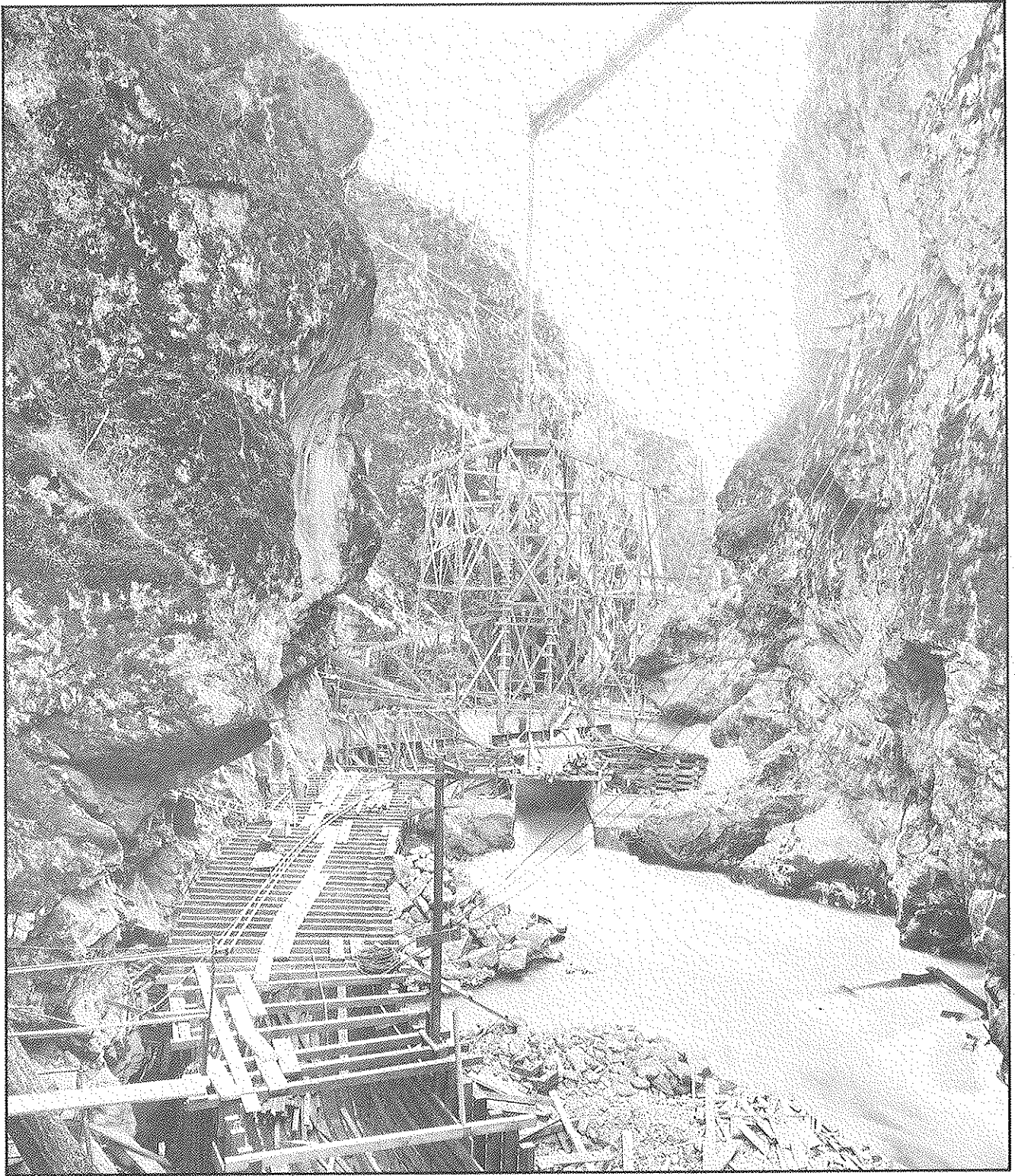
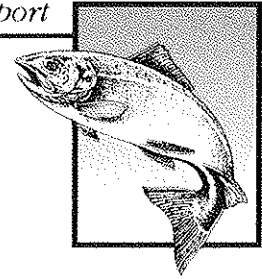


III. History of FERC





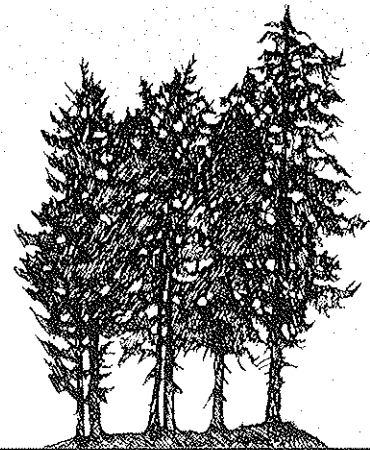
*Constructing dam foundations,
Glines Canyon Dam site,
September 7, 1926.
(Northwestern Power & Light
Company photo)*

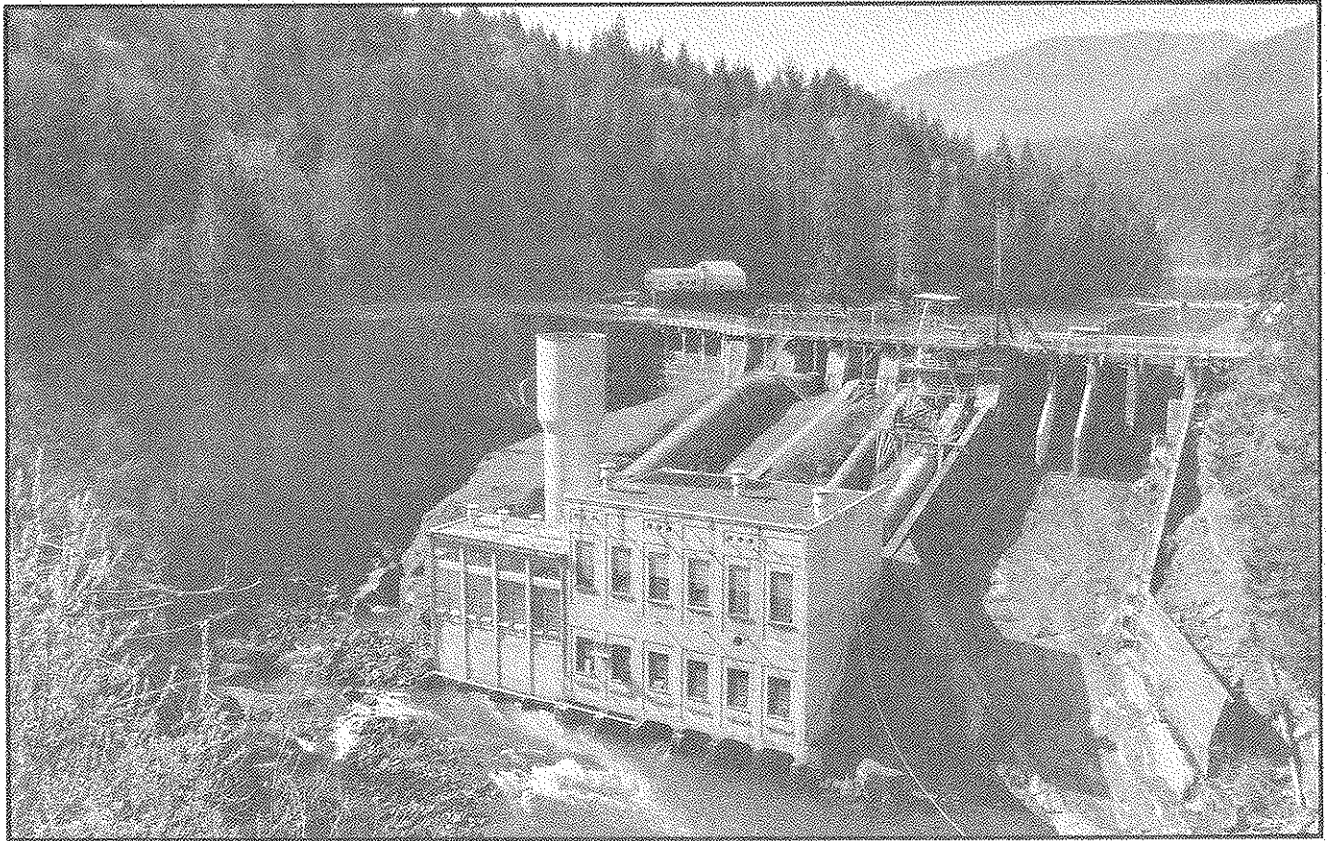
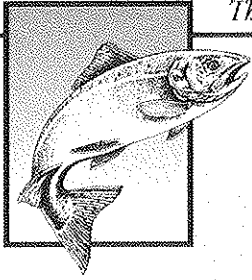


III. History of the FERC Process

Federal licensing of the Elwha Project was initiated in 1968 when the owner of the project at that time, the Crown Zellerbach Corporation, filed an application for license with the Federal Power Commission (FPC). The Northwestern Power & Light Company filed a license application with the FPC for the Glines Canyon Project on March 23, 1926 (Appendix B). The FPC issued a 50-year license for the Project on June 6, 1926, with no provisions for fish passage measures or other mitigation. On November 20, 1970, the FPC issued a notice of expiration of the original Glines Canyon license. With the passage of P.L. 102-495, the Federal Energy Regulatory Commission (FERC) halted its licensing/relicensing activities, other than the issuance of annual licenses for the Glines Canyon Project.

FERC's authority to license the Glines Canyon Project has been in question for some time. In a February 13, 1986, filing, the Department of the Interior asserted that FERC lacks authority to relicense the Glines Canyon Project since it is located within the boundaries of Olympic National Park. This position was supported by the General Accounting Office in February 1990. Various conservation groups (i.e., Olympic Park Associates, Seattle Audubon Society, Friends of the Earth, and the Sierra Club) filed a motion with FERC to intervene in the proceeding and called for the removal of both dams. In response to various petitions by Federal agencies, the Tribe, and the conservation groups, FERC determined by final order that it had jurisdiction over the Glines Canyon Project. That determination was then challenged in court. The Justice Department (for the Departments of Interior and Commerce), Tribe, and conservation groups filed Petitions for Review in May and June 1991 with the Ninth Circuit Court for review of the FERC decisions. James River, Daishowa America, the National Hydropower Association, the Edison Electric Institute, and local government and industry groups participated in the litigation in support of FERC's determination. With the enactment of P.L. 102-495, all parties to the case requested that the Ninth Circuit issue a stay of the lawsuit. A stay was granted on February 1, 1993, and will expire April 30, 1994, at which point the court has directed the parties to "file a status report and a request for either the calendaring or voluntary dismissal of the petition for review or other appropriate relief."





Elwha Dam. (Janis Burger)