

Public Involvement Opportunities in the FERC Licensing ILP and ALP Hydroelectric Licensing Processes

Licensing a hydroelectric project under the Federal Energy Regulatory Commission's (FERC) licensing procedures is a multi-year process that provides considerable opportunity for public input and participation. The licensing process is based on federal laws and regulations that require several years worth of extensive planning, environmental studies, resource agency and native American consultation, community meetings and opportunities for public comment. There are numerous opportunities for engaging the public in this lengthy process of studying, preparing, and evaluating a licensing proposal.

Of the Commission's three available licensing processes, both the Integrated Licensing Process (ILP) and Alternative Licensing Process (ALP) mandate specific requirements for informing and consulting with members of the public, citizen groups and other non-governmental organizations (NGOs). Increased public involvement is one of the goals of the ILP and ALP processes over the earlier "Traditional" Licensing Process (TLP) that had been in place for many decades. The ALP and TLP require written support from agencies and NGO's to get approval from FERC, while the ILP is the default process that requires no special approvals. While the TLP offers some flexibility in terms of stakeholder outreach it would not be a good fit for a Project like Watana because it would not provide the opportunities for stakeholders to participate in the study process and the ability for the public to participate are less than those of the ILP or ALP. Because the ILP provides a structured formal sequence for all licensing steps, all participants are enabled to play key roles from the very beginning of the process. The ALP is a bit more informal, but has similar steps to the ILP in allowing opportunities for public participation; the only real difference is that the timeframes for each step can vary and will not necessarily be known in advance to the public and other potential interested parties. Both the ILP and ALP were designed by the Commission to involve a wider range of participants at an earlier stage in the licensing process versus the previous TLP.

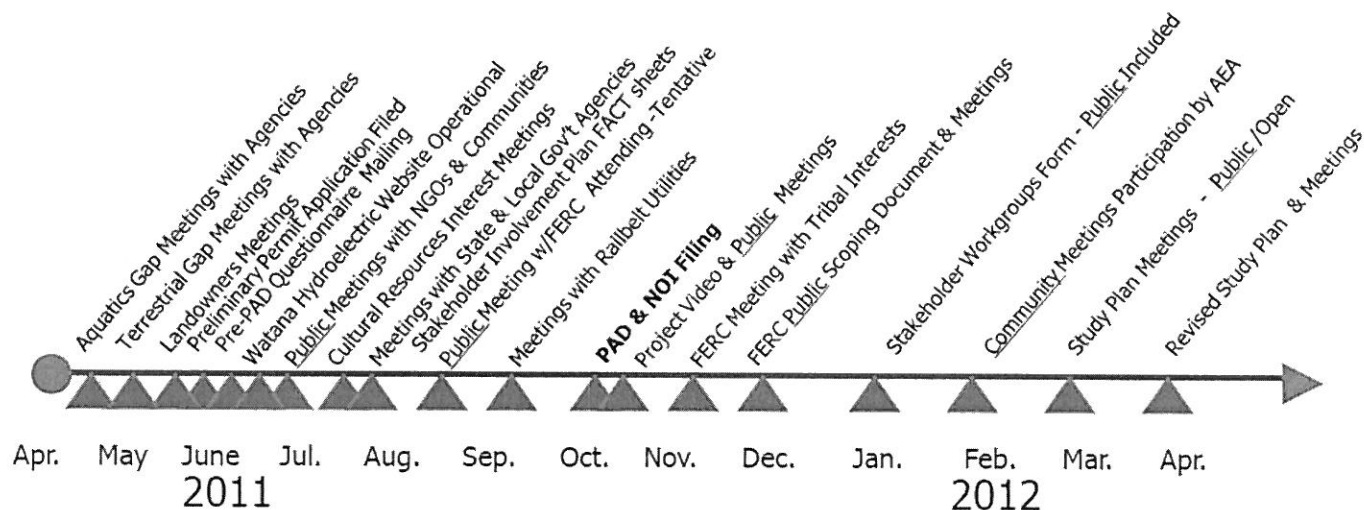
In general, the public has tremendous opportunities for input from the outset of any of the FERC licensing processes, beginning with consultation that takes place before the licensee publishes its Notice of Intent (NOI) to even file for a license. For the Watana Hydroelectric Project, some of the main pre-PAD public activities that would be important are outlined in the following timeline that assumes filing of a NOI and PAD in fall of 2011.

<u>Timeframe:</u>	<u>Activity:</u>
April – June 2011	Landowner meetings AEA Web site operational (to be update regularly) Pre-PAD Questionnaire mailings Hydro mailing list Community and interest organization informational meetings
July – September 2011	Public meetings with FERC (to describe process) Stakeholder Involvement Plan – Communication plan Project Fact Sheet AEA Web site (continually update)
October – December 2011	PAD & NOI filed Public information sheets

FERC meeting with Tribal Interests
 FERC Public Scoping Document & Meetings
 FERC website, mailing list, written comments
 AEAWeb site (continually updated)

January – March 2012

Stakeholder workgroups formed
 Community meetings
 Study Plan meetings
 Revised Study Plan & meetings
 FERC website, mailing list, written comments
 AEAWeb site (continually update)



Public Participation Opportunities Common to all FERC Licensing Processes

In general, all of FERC's licensing processes involve two distinct parts: Pre-Application activities, which can be divided into other phases; and Post-Filing activities which are led by FERC. The first Pre-Application activity phase includes preparation and filing with FERC by the applicant of a NOI to file an application for a license and a Pre-Application Document (PAD). As part of the PAD, applicants are required to not only consult with the public and all interested parties, but also to develop and maintain licensing mailing lists of all interested parties who wish to receive information regarding the Project licensing. Under any of the FERC processes, anyone who wishes to be included can add their name and contact information to the mailing lists that will eventually be used for a variety of required notifications by the applicant, FERC, and other agencies. In both Pre-Application and Post-Filing phases license applicants, agencies and FERC and any member of the public can access FERC's web-based e-library system that will hold the Commission's complete records filed under a specific FERC Project number (or docket number). Any party can search and download documents, write and file letters and other documents themselves. Interested parties can even subscribe to an email service that will inform them of new filings as they come in. Lastly, any interested party can formally intervene in a Project proceeding through FERC's e-library if they wish to be able to seek formal rehearing or ultimately appeal the Commission's findings in a Federal court.

Most all modern licensing efforts also include a Project specific website hosted by the applicant where documents, meeting notices and other information are made available. AEA is currently in the final

stages of developing a new Website specifically for the Watana Project complete with listserv capabilities where interested parties can sign up for emails to stay abreast of current activities in the licensing process. Additionally, the PAD and license application filings are required to be sent to public libraries under any of the FERC licensing processes. All of FERC processes require applicants and FERC to place public notices in regional newspapers at the time of most major filings and prior to public meetings. In summary, members of the public can:

- Get placed on mailing lists and access licensing information through each stage of the process.
- Provide written comments to FERC and all other parties at any time documenting concerns with, or support for the Project.
- Provide oral comments and ask questions of Commission staff and the applicant at public scoping meetings, site visits, and in other meetings.
- Submit study requests and participate in workgroups during study plan development (varies by FERC licensing process).

Public Involvement Opportunities under the ILP and ALP

The PAD provides FERC and potential interested parties with existing, relevant and reasonably available information pertaining to the Project to help identify potential impacts, issues and related information needs, to develop study requests and study plans.

Under the ILP regulations, within 120 days of the date the NOI is filed, FERC holds initial meetings with all potentially-affected tribes or other Native American interests; issues a public notice that the NOI and PAD have been filed; prepares and issues a Scoping Document 1 (SD1) that discusses the project and related issues; and holds public meetings and site visit. FERC scoping meetings are typically held over a several day period with daytime and evening meetings in several locations in the Project area. Each meeting provides the opportunity for the public to view formal presentations and learn more about the Project plans and licensing process. The meetings provide opportunities for interested parties to give verbal testimony that is transcribed by a court recorder. The transcribed comments are made available to the public on FERC's eLibrary. Written comments may also be submitted during the scoping meetings or at any time in the licensing proceeding. Thirty days after the last scoping meeting, all interested parties may file comments with FERC on the NOI, PAD, and SD1.

FERC's scoping process in an ALP will normally take place later than under the ILP unless requested by the applicant and stakeholders, in which case it would be similar to the ILP process although the requirement for meeting with the potentially-affected tribes and other Native American groups is not set on a specific timeline under the ALP regulations. The advantage of the ILP for the public is that all parties will have certainty they can participate at a set point, early in the process and that will allow them a chance to get engaged in all of the subsequent licensing stages rather than entering the process after most decisions regarding studies and other commitments have been made.

Under the ILP, within 195 days after the PAD is filed, the applicant must file a Proposed Study Plan that includes detailed plans for each study it proposes to perform. Within 90 days, the applicant must hold at least one study plan meeting open to all interested participants, and interested parties may file comments on the Proposed Study Plan. Thirty days later, the applicant must file a Revised Study Plan, and 30 days after that FERC must issue a Study Plan Determination, which orders the applicant to perform the studies described by FERC in the Determination. The process for the ALP is less formal and does not have the pre-determined, prescribed steps and timelines, so it is often more difficult for interested parties to know when they can participate. In an ALP the public can provide similar input to study plans

and get involved in the process and would have the best chance for involvement if they join into the ALP collaborative licensing groups that are set up early in the process.

The ILP and ALP generally provide for two seasons of field studies. At the conclusion of both field seasons under the ILP, the applicant files a Study Report with FERC that describes the applicant's progress in performing the studies, and identifies any variances and modifications, including new studies. All interested parties have an opportunity to meet with the applicant to discuss each report and file comments with FERC before FERC makes a determination regarding the proposed modifications. The final Pre-Application activity phase commences when the applicant files either a Draft License Application (DLA) or a Preliminary Licensing Proposal (PLP), which must be filed no later than 150 days before the applicant must file its Final License Application (FLA). The ALP follows a similar sequence but may include an applicant-prepared Environmental Assessment also available for public comment. Interested parties have 90 days to file comments on the DLA or PLP under either process. Lastly, a Final License Application is prepared under both ILP and ALP that documents how the applicant has collaborated with federal and state agencies, tribes and the public regarding the measures.

Post-Filing activities commence once the applicant files its Final License Application. During the Post-Application activities FERC will: 1) determine if the application is complete and request additional information from the applicant if needed; 2) prepare an Environmental Assessment or Environmental Impact Statement (EIS) consistent with the National Environmental Policy Act once the application is complete; and 3) make a decision on issuance of the license, including license terms and conditions. In this process the public is notified and allowed participation through direct mailings from the applicant's mailing list, through posting in FERC's e-library, and through public meetings and newspaper notices.

Development of a Stakeholder Involvement Plan

While not specifically required under an ALP or ILP, a stakeholder involvement plan is essential to successful licensings as it is widely known that it is better to engage potentially interested parties early, rather than have them join into the process late with their concerns. A stakeholder involvement plan is developed prior to filing of the PAD and typically addresses the following items:

- A Communications Plan that clearly describes the procedures for information sharing including:
 - Providing comments
 - Public & working meetings (notices, minutes, etc)
 - Document distribution protocols
 - Study requests procedures
- Identifies potential stakeholders early on
- Develops a Strategic/Media Relations Plan
- Provides means to get early conversations going with key stakeholders
- Provides potential "polling" opportunities (PAD questionnaire)
- Develops a framework to obtain rapport with all stakeholders
- Benchmark potential mitigation measures and highlights Project benefits
- Provides framework for how a Web page should be structured
- Lays out a plan for how public meetings, open houses, and site visits should be organized and ran.
- Describes when and how direct mailings should be used.
- Lays out a plan for engaging the media to get newspaper & other media outlet coverage
- Addresses the need and outlines how Project managers can attend and participate in other regular community or agency meetings