

Public Involvement Opportunities in the FERC Hydroelectric Licensing Process for the Susitna-Watana Project

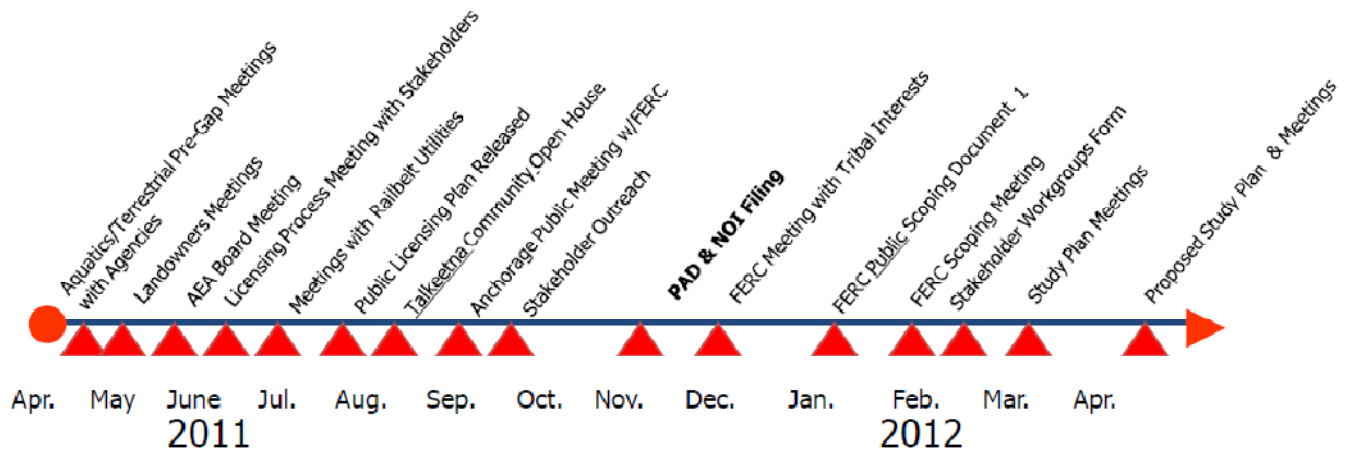
Licensing a hydroelectric project under the Federal Energy Regulatory Commission’s (FERC) licensing procedures is a multi-year process that provides considerable opportunity for public input and participation. The licensing process is based on federal laws and regulations that can require several years’ worth of extensive planning, environmental studies, resource agency and Alaska Native organization 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 several decades and provided limited opportunities for stakeholders to participate in the consultation and study processes. 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 more informal than the ILP, with the real difference being that the timeframes for each step can vary and are not necessarily known in advance to the public and other potentially interested parties.

For several important reasons, including its defined structure and timeframes, formal study plan determination, and early NEPA scoping, AEA has determined that the ILP is the most appropriate licensing process for the Susitna-Watana Project. In general, the public has opportunities for input from the very outset of the ILP, beginning with informal consultation that takes place before the applicant publishes its Notice of Intent (NOI) and Pre-Application Document (PAD) to initiate the formal licensing process. For the Susitna-Watana Project, some of the main pre-PAD public activities are outlined in the following timeline that assumes filing of a NOI and PAD in late 2011.

<u>Timeframe:</u>	<u>Activity:</u>
April – October 2011	Landowner Meetings AEA Website (to be updated regularly) Pre-PAD Questionnaire mailings Hydro mailing list Community and interest organization informational meetings Public Meetings with FERC (to describe process) Stakeholder Involvement Plan – Communication Plan Project Fact Sheet
November 2011	PAD & NOI filed
December 2011 – February 2012	FERC meeting with Tribal Interests FERC Public Scoping Document & Meetings FERC website, mailing list, written comments AEA Website (continually updated)
March 2012 - October 2012	Stakeholder workgroups formed

Community meetings
 Study Plan meetings
 Revised Study Plan & meetings
 FERC website, mailing lists, written comments
 AEA Website (continually updated)



Public Participation Opportunities Common to all FERC Licensing Processes

In general, all of FERC’s licensing processes involve two distinct parts: Pre-Application activities led by the applicant, 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 an NOI to file an application for a license and a Pre-Application Document (PAD). As part of the PAD, the applicant is required to consult with the public and all interested parties, and to develop and maintain mailing lists of all interested parties who wish to receive information regarding the Project licensing. Under all 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 of documents filed under a specific FERC Project number (or docket number). Any party can search and download documents, as well as file letters and other documents. Interested parties can also subscribe to an email service that will inform them of new documents as they are added to e-library. Lastly, any interested party can request to 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 has developed a new website specifically for the Susitna-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. 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 Susitna-Watana ILP

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

Under the ILP regulations, within 120 days of the date the NOI is filed, FERC will hold initial meetings with all potentially-affected Alaska Native interests; issue a public notice that the NOI and PAD have been filed; prepare and issue a Scoping Document 1 (SD1) that discusses the project and related issues; and hold public meetings and a site visit. The FERC NEPA scoping meetings are expected to include daytime and evening meetings in locations in the Project area and in Anchorage. Each meeting will provide the opportunity for the public to view presentations and learn more about the Project plans and licensing process. The scoping meetings will 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. All interested parties may file comments with FERC on the NOI, PAD, and SD1 for a period of 30 days after the last scoping meeting.

One of the key advantages of the ILP for the public is that all parties will have certainty they can participate at a set point, starting early in the process, and can continue to stay engaged throughout 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, upon the completion of NEPA scoping 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. The applicant will then file a Revised Study Plan, and FERC will issue a Study Plan Determination, which directs the applicant to perform the studies described by FERC in the Determination.

The ILP provides 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 the potential need for 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 any 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), followed by its Final License Application (FLA). Interested parties have 90 days to file comments on the DLA or PLP.

Post-Filing activities for the Susitna-Watana Project will commence once AEA files its Final License Application. During the Post-Application activities FERC will: 1) determine if the application is complete and ready for processing and request additional information from AEA if needed; 2) prepare an Environmental Impact Statement (EIS) consistent with the National Environmental Policy Act; 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 Public Licensing Plan

While not specifically required under the ILP, a user-friendly public licensing plan is essential to a successful licensing process, particularly for a new large project like Susitna-Watana. AEA plans to issue a public licensing plan prior to filing of the PAD that is expected to address the following items:

- How ILP Meets the Needs and Interests of AEA and other participants
 - o Urgency to complete licensing process driven by on-line date for power
 - o Predictability of process steps and timing important so that all participants can plan for their participation
 - o Clarity of information needs will ensure efficient study program
 - o Complete administrative record will benefit all participants
 - o Need to provide flexibility when needed and possible without endangering overall schedule
 - o Framework for resolving disputes efficiently
 - o Effective communications will be critical
 - Technical workgroups
 - Web site
 - Community outreach
- Describe general ILP process steps/timeline
 - o ILP is default FERC process designed to be applicable to all projects, original and relicensing
 - o Integrates NEPA scoping with study planning to ensure a complete application
 - o Many opportunities to participate in scoping, study planning, reviewing study results, developing measures
 - o Flexibility to allow settlement process to be completed if desired
- Describe solutions to known concerns with licensing process
 - o Started early with gap analysis efforts to synthesize existing information
 - o Will develop protocol for making decisions on flexibility within ILP framework
 - o Will develop protocol for resolving disputes locally
 - o Will address funding for agencies to participate effectively in ILP
 - o Will develop a communications protocol to guide information sharing