

# Chakachamna Project (FERC No. 12660) FERC Licensing Process Discussion

## Stakeholders Meeting Notes

April 10, 2009

### Meeting Attendees:

Finlay	Anderson	Long View Associates
Philip	Brna	US Fish and Wildlife Service
Brian	Carey	AEA, AIDEA
Jim	Ferguson	Alaska Department of Fish and Game
Jan	Konigsberg	Natural Heritage Institute/Hydropower Reform Coalition
Scott	Maclean	Alaska Department of Fish and Game
Megan	Marie	Alaska Department of Fish and Game
Betsy	McCracken	Alaska Department of Fish and Game
Tom	Meyer	NOAA Fisheries (by phone)
Karen	O'leary	USDA Forest Service
Doug	Ott	AIDEA
Steve	Padula	Long View Associates
Bob	Shavelson	Cook Inlet Keeper
Jim	Thrall	TDX
Sue	Walker	NOAA-Fisheries (by phone)
Michael	Walton	DNR Water Resources
Eric	Yould	TDX

On January 12, 2009 the TDX requested stakeholder feedback on the anticipated request to use the Traditional Licensing Process (TLP) for the Chakachamna Project. At a February 19, 2009 meeting in Anchorage and through email correspondence, questions were raised about the choice of process. TDX arranged this meeting to talk with stakeholders about their questions and goals for a licensing process.

### Discussion

- Nick Goodman (TDX) opened the meeting by presenting a brief project overview and update. He informed meeting that Entrix had been retained as the in-stream flow consultants and that MWH has been brought on board as the Engineer of Record for the Project. Nick described the current energy situation in the Railbelt and provided a rationale for the aggressive schedule that TDX has adopted for pursuing the Project.
- Steve Padula (LVA) summarized the Project Team's thinking with respect to the best fit for a licensing process. The main criteria TDX has considered are 1) the ability of the selected process to adhere to a schedule; 2) a desire for flexibility to continue analysis and data gathering beyond submittal of a license application. The TLP has specific provisions that appear to fit the unique study needs of the Project for a) studies that need to extend after filing the license application but before issuance of a license and b) studies that can be conducted or information obtained only after construction of the proposed

facilities (e.g. post construction monitoring studies). Steve referred stakeholders to 18 CFR 4.38(c)(i)-(iii) for a description of how FERC envisions this three stage consultation working. Steve noted that should FERC deny TDX's request to use the TLP, TDX is making plans to conduct consultation utilizing FERC's default process which is the Integrated Licensing Procedure (ILP).

- Steve asked stakeholders for feedback on their questions or concerns about the process. He distributed a handout that outlined TDX's proposal for ways that a traditional TLP could be enhanced with additional consultation opportunities.

There was discussion about the differences between the Alternative Licensing Procedure (ALP), the ILP and the TLP. Concerns and questions expressed with the TLP were identified as:

1. Consequences of not doing early NEPA scoping (as would be done with ILP or ALP)
  2. Ability to reach resolution on study plan disputes and the distinction between "advisory opinion" (available through TLP/ALP) versus a study plan determination (ILP)
  4. Difficulty in developing an administrative record upon to which stakeholders could easily refer and reference in future proceedings
  5. Desirability/questions about the significance of early FERC staff involvement (available through ILP and ALP; uncertain for TLP)
- NMFS noted that the FERC's ILP final rule, which lays out the criteria for selection of the **TLP or ALP, does** not appear to be a good fit for the Chakachamna Project. Stakeholders expressed an interest in pursuing an ALP, and asked TDX to explain its reluctance to pursue this approach. Steve responded that the main concern of TDX is implications to schedule since it is really an open-ended process and the applicant would not be able to move forward on key steps without concurrence of all of the participants. While stakeholder concurrence on key steps is highly desirable, TDX, as a private developer, has determined that it needs to retain control of the licensing schedule.
  - NMFS expressed concern that the Project had not been adequately described and that TDX's planned informal 2009 environmental study program represents a narrowing in scope of future planned studies from what might be necessary. Jim Thrall (TDX) agreed that the description of the proposed project and operation needs to be confirmed and that with MWH on board they are being tasked with developing this information for the Pre-Application Document (PAD). Jim indicated that no decisions had been made by TDX to narrow the ultimate scope of study and that the intent of the 2009 study program was simply to begin gathering needed baseline data on which future study designs would depend. TDX has been gathering a detailed list of issues and potential studies which will be identified in the PAD and further described in the formal study plan after additional consultation with stakeholders (Note: see Appendix B to the April 7 2009 Detailed Study Plan for treatment of comments received on the conceptual study plan).

- Stakeholders asked if TDX was anticipating that a negotiated settlement would be an outcome of this process, and how that potential figures into the selection of a process. Steve responded that TDX believes that while a settlement process is a possibility, it is far too early to plan on it; that said, the TLP appears to provide for more flexibility than the ILP does for moving into a settlement process.

#### Next Steps

- TDX offered to disseminate a Consultation Protocol that responded to the questions and desires expressed by the group; Finlay Anderson (Long View) will try to schedule a meeting for the week of May 11, 2009 to review the Protocol.