

APPENDIX 2-1

PROPOSED COMMUNICATION PROTOCOL FOR TRADITIONAL LICENSING PROCESS

Proposed
Communications Protocol
For Licensing Consultation Activities
For the Chakachamna Hydroelectric Project (FERC No. 12660)

TDX Power, Inc. (TDX) is requesting FERC to authorize use of a traditional three-stage consultation process for the licensing of the Chakachamna Hydroelectric Project (Project), enhanced with additional process commitments and consultation opportunities. TDX initiated informal consultation with potentially interested parties with an outreach effort that began in 2007. Additional informal consultation regarding the proposed licensing process, and the need and goals for early field studies began in late 2008. TDX plans to initiate formal consultation with issuance of the Notice of Intent (NOI) and Preliminary Application Document (PAD) in June 2009. The TLP, if approved, will require a Joint Meeting with the agencies, Indian tribes and the public and will provide opportunities for the Participants to provide comments on the PAD and to make study requests.

TDX believes that there are significant unique characteristics of the proposed Project that make strict adherence to the Integrated Licensing Process (ILP) less than optimal. The proposed Project is a large (300 MW) new development in an area of Alaska with important natural resources but relatively little current resource information. Thus, a significant study program is envisioned to generate the information needed to support the development of a license application. It is anticipated that some elements of the study program could extend beyond the typical two year study timeframe envisioned in the ILP. Moreover, TDX Power is working to synchronize the development of the Project with a Regional Integrated Resources Plan (RIRP) process that has been initiated by the Alaska Energy Authority (AEA). The RIRP which will be a 50-year plan that will identify combinations of generation and transmission (G&T) capital improvement projects in the Railbelt Region of Alaska. TDX Power anticipates that the RIRP, currently scheduled for issuance near year end 2009, will influence the role of the Project in meeting future energy needs of the Railbelt. The ongoing RIRP process conducted by the AEA creates an environment where a phased approach, with multiple opportunities for stakeholders to provide input to environmental studies is most appropriate. TDX proposes that the formal study plan developed in support of the licensing process be conducted on two phases.

The TLP provides additional flexibility over the ILP through provisions 18 CFR § 4.38(c)(1)(ii) and CFR § 4.38(c)(1)(iii) that expressly provide for continuing studies, under certain conditions, after submittal of the license application and after a license is issued. Given the complex nature of this Project area and the lack of existing information, TDX may elect to pursue such a post filing study program.

During consultation regarding its desire to use the TLP, agencies and other stakeholders raised concerns regarding:

- Consequences of not doing early NEPA scoping, as would be done with the ILP;
- Ability to reach resolution on study plan disputes and the distinction between “advisory opinion” that is available through the TLP versus a formal study plan determination (ILP);
- Difficulty in developing an administrative record to which stakeholders could easily reference in future proceedings;
- Desirability/questions about the significance of early FERC staff involvement (available through ILP but uncertain for the TLP).

To address these concerns TDX is proposing to enhance the TLP with specific provisions of the ILP; details in this regard are included below. TDX acknowledges that many of the strict deadlines, particularly with regard to study planning, report review, and modifications to the approved study plan may be difficult to meet. To the extent possible without jeopardizing the ability to effectively utilize available field time or the overall Project schedule, TDX is committed to working with agencies and other participants to identify opportunities to make adjustments to standard timeframes.

This Communication Protocol (Protocol) is intended to facilitate communication and cooperation among TDX, federal and state agencies, and other interested organizations and parties (collectively, Participants) during the preparation of TDX’s Application for Original License for the Project. This Protocol is structured based on the assumption that FERC will approve the use of a modified Traditional Licensing Process (TLP) for the pre-filing consultation period for the Project. Given that the Project is a large new development in an area for which relatively little information exists, TDX believes that the TLP, as modified by the provisions outlined below, would be the most effective process for completing the necessary pre-filing work while providing for meaningful participation by agencies, other interested organizations and the public. Should the TLP not be approved for use, TDX will continue with consultation utilizing the default ILP and follow the applicable regulations.

This Protocol will govern communications among all Participants and provide public access to information regarding the consultation activities related to the licensing of the Project. The Protocol also applies to communications made by contractors or consultants on behalf of TDX or any of the Participants. This Protocol does not apply to communications solely between Participants, or to any Participant’s internal communications.

I. Participation in the Licensing Process

The licensing process for the Project is open to the general public and interested parties are encouraged to participate. A contact list, compiled by TDX, will be maintained to identify those agencies, organizations, individuals or groups that have been identified as interested parties or who have requested to be included as Participants. The contact list will be used to provide notice of any public meetings, as well as notice of the availability of information for public review. The

contact list will be updated periodically by TDX and inactive Participants will be asked annually to re-affirm their interest in participating in the process.

In response to concerns with the TLP identified by agencies and other interested parties, TDX proposes to supplement the TLP process with additional consultation steps to provide an enhanced level of engagement and transparency. As allowed under 18 CFR §4.38(e)(4), TDX is requesting as part of its proposal to utilize the TLP that the Commission approve the addition of the following ILP elements into the licensing process for the Project:

- Early NEPA Scoping by FERC as described under 18 CFR §5.8;
- Study Criteria under 18 CFR §5.9;
- Study Plan Development (18 CFR §5.11);
- Stakeholder comments on study plans and revised study plans (18 CFR §5.12 through 18 CFR §5.13);
- Formal study dispute resolution process as described in 18 CFR §5.14; and
- Initial Study Report (ISR) and Updated Study Reports (USR) pursuant to 18 CFR §5.15.

A proposed process schedule that incorporates these elements of the ILP into the enhanced TLP for the Project is attached to this protocol.

Early NEPA Scoping by Commission Staff

As outlined in the ILP regulations at 18CFR5.8(b)(3)(vii), TDX requests that the Commission, as part of its notice of receipt of the Notice of Intent (NOI) and the Pre-Application Document (PAD), commencement of proceeding and its approval of TDX's request to use the traditional licensing process as enhanced by the provisions identified herein, issue a statement with regard to its intent to prepare an environmental impact statement on the ultimate license application. TDX also requests that the Commission prepare and issue Scoping Document 1 concurrent with its notice.

Study Criteria

TDX requests that the Commission incorporate the study criteria identified in 18CFR5.9(b) into the licensing process for the Project and require that any information gathering and study requests meet these criteria.

Study Plan Development

TDX is proposing to develop the environmental study program in two distinct phases. Phase 1 will be drafted in 2009 for implementation in 2010 and will generate essential data (e.g., hydrologic, imagery, bathymetry) to design the balance of the environmental studies that will be initiated in 2011. This approach to the formal pre-filing consultation and study program, with effective opportunities for stakeholder input participation is not possible under the ILP.

TDX requests that the Commission incorporate the requirements of 18CFR5.11 regarding the development of the two separate Proposed Study Plans (PSPs) and the conduct of study plan

meetings into the licensing process. This will require that TDX file its Phase 1 PSP (PSP-1) with the Commission within 45 days following the deadline for the filing of comments and study requests on the Pre-Application Document; and its Phase 2 PSP (PSP-2) within 1 year of the deadline for the filing of PSP-1. The PSP-1 and PSP-2 will meet the following specific requirements of 18CFR5.11(b), (c) and (d):

- For each proposed study:
 - o A detailed description of the study and the methodology to be used,
 - o A schedule for conducting the study,
 - o Provisions for periodic progress reports, including the manner and extent to which information will be shared and sufficient time for technical review of the analysis and results, and,
 - o If TDX does not adopt a requested study, an explanation of why the request was not adopted, with reference to criteria set forth in 18CFR5.9(b)
- Provisions for the Initial and Updated Study Reports (ISR and USR, respectively) and meetings provided for in 18CFR5.15
- For each proposed study:
 - o Describe the goals and objectives,
 - o Address any known resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied,
 - o Describe existing information concerning the subject of the study proposal and the need for additional information,
 - o Explain any nexus between project operations and effects (direct, indirect and/or cumulative) on the resource to be studied,
 - o Explain how any proposed methodology is consistent with generally accepted practice in the scientific community or, as appropriate, considers any known tribal interests, and
 - o Describe considerations of level of effort and cost, as applicable.
- Provisions for conducting study plan meeting(s) during the 90-day period provided for in 18CFR5.12 for the purpose of clarifying TDX's proposed study plan and any initial information gathering or study requests, and to resolve any outstanding issues with respect to the proposed study plan.
- The initial study plan meeting must be held no later than 30 days after the deadline date for filing of the proposed study plan.

In addition to the information described above for each study included in PSP-1, PSP-1 will identify anticipated studies to be included in PSP-2.

Stakeholder Comments on Proposed Study Plans and Revised Study Plans

Comments on PSP-1 and PSP-2, including any revised information or study requests, shall be filed within 90 days after each PSP is filed. Comments shall include an explanation of any study plan concerns and any accommodations reached with TDX regarding those concerns. Any proposed modifications to TDX's PSP shall address the criteria in 18CFR5.9(b).

Within 30 days following the deadline for filing comments on PSP-1 and PSP-2, TDX will file Revised Study Plans (RSP-1 and RSP-2) for Commission approval. The RSPs will include comments received on the proposed study plan and a description of efforts made to resolve differences over study requests. If TDX does not adopt a requested study, it will explain why the request was not adopted, with reference to the criteria in 18CFR5.9(b). In the case of RSP-1, TDX will be clear in its commitment to detailing the balance of the study program in PSP-2.

Within 15 days following filing of the RSP-1 and RSP-2, Participants may file comments thereon. Within 30 days following filing of each RSP, the Director of Energy Projects will issue a study plan determination, including any modifications determined to be necessary in light of the record.

If no notice of study dispute is filed pursuant to 18CFR5.14 within 20 days of the study plan determination, the study plan as approved in the study plan determination will be deemed approved and TDX will proceed with the approved studies.

Formal study dispute resolution process

Within 20 days of the study plan determination, any Federal agency with authority to provide mandatory conditions on a license pursuant to FPA section 4(e), or to prescribe fishways pursuant to FPA section 18, or any agency or Indian tribe with authority to issue a water quality certification for the project license under section 401 of the Clean Water Act may file a notice of study dispute with respect to studies pertaining directly to the exercise of their authorities under sections 4(e) and 18 of the FPA or section 401 of the CWA.

Any notice of study dispute shall explain how the disputing agency's or Indian tribe's study request satisfies the criteria set forth in 18CFR5.9(b), and shall identify and provide contact information for the panel member designated by the disputing agency or Indian tribe, as discussed in 18CFR5.14(d).

TDX will request that the Commission follow the formal dispute resolution process as described in 18CFR5.14(d) – (l).

Initial Study Report (ISR) and Updated Study Reports (USR)

Pursuant to the Commission-approved study plan and schedule or no later than one year after Commission approval of the RSP-1 and RSP-2, whichever comes first, TDX will prepare and file with the Commission an ISR describing its overall progress in implementing the study plan and schedule and the data collected, including an explanation of any variance from the study plan and schedule. The report will also include any modifications to ongoing studies or new studies proposed by TDX.

Given the nature of the anticipated study program as outlined in Section 5 and Appendix 5-1 of the PAD, the scopes of some studies, primarily related to impact assessment, will rely significantly on the results of other studies designed to generate basic existing resource information. TDX is committed to working with Participants to refine the scopes of such impact

assessment studies based on the new resource information that is generated, and documenting these refinements in the ISR.

Within 15 days following the filing of the ISR, TDX will hold a meeting with Participants and Commission staff to discuss the study results and TDX's and/or other Participants' proposals, if any, to modify the study plan in light of progress of the study plan and data collected. Within 15 days of this meeting, TDX will file a meeting summary, including any modifications to ongoing studies or new studies proposed by TDX.

Any Participant or the Commission staff may file a disagreement concerning TDX's meeting summary within 30 days, setting forth the basis for the disagreement. Any disagreement filing shall include any modifications to ongoing studies or new studies proposed by the Commission staff or other participant. Responses to any disagreement filings shall be made within 30 days. No later than 30 days following the due date for responses, the Director will resolve the disagreement and amend the approved study plan as appropriate. If no Participant or Commission staff files a disagreement concerning the meeting summary or requests to amend the approved study plan within 30 days, any proposed amendment will be deemed to be approved.

TDX requests that the Commission apply the criteria located in 18CFR5.15(d) and (e), with regard to requests to modify an approved study or for new studies.

Pursuant to the Commission-approved study plan and schedule, or no later than two years after Commission approval of the study plan and schedule, whichever comes first, TDX will prepare and file with the Commission a USR that meets the requirements of 18CFR5.15(f).

TDX acknowledges that due to the nature of some of the resource study efforts described in the PAD, and the proposal to pursue studies in two phases, that all study efforts needed to support the development of the license application will not be completed within two years of the initiation of the study program. TDX is committed to working with agencies and other Participants to generate sufficient information regarding project effects to support the license application without jeopardizing the overall project schedule. To that end, the USR will include any modifications to ongoing studies proposed by TDX based on consultation with Participants.

Similar to the ISR, TDX will hold a meeting on the USR with Participants and Commission staff and prepare and file a meeting summary. Any Participant or the Commission staff may file a disagreement concerning TDX's meeting summary within 30 days, setting forth the basis for the disagreement. Any disagreement filing shall include any modifications to ongoing studies or new studies proposed by the Commission staff or other Participant. Responses to any disagreement filings shall be made within 30 days. No later than 30 days following the due date for responses, the Director will resolve the disagreement and amend the approved study plan as appropriate. If no Participant or Commission staff files a disagreement concerning the meeting summary or requests to amend the approved study plan within 30 days, any proposed amendment will be deemed to be approved. TDX will repeat these process steps as necessary for any studies which extend beyond the end of the second year of the study program.

TDX acknowledges that many of the strict deadlines outlined above, particularly with regard to study planning, report review, and modifications to the approved study plan may be difficult to meet. To the extent possible without jeopardizing the ability to effectively utilize available field time, TDX is committed working with agencies and other Participants to identify opportunities to make adjustments to these standard timeframes. Given that this effort will occur within a modified TLP, these decisions regarding adjustments to timeframes can be made by TDX in coordination with Participants.

To the extent that any study efforts aimed at developing additional baseline information as the basis for long term monitoring of Project effects after construction continue past the filing of the License Application, TDX will work with the Commission to establish a process similar to that described above for continued Participant review of applicable study reports.

II. Maintenance of the Public Reference File

TDX has developed and will maintain a public reference file at TDX's offices in Anchorage. The public reference file will include copies of all written correspondence (including e-mails), documentation of phone conversations, meeting notices, agendas and summaries, study plans, study reports, status reports, and other documents developed during consultation or submitted for inclusion in the public reference file. All documents in the public reference file will be submitted to FERC as part of the formal licensing record.

TDX will also maintain a website (www.chakachamna-hydro.com) for access to key documents developed during the course of the licensing consultation, such as the PAD and NOI, meeting notices, meeting summaries, study plans and study reports. The licensing website will also have an information library that allows stakeholders to access relevant information that TDX has gathered through its due diligence process.

For the duration of the licensing proceeding TDX will also make available to the public for inspection, in a form that is readily accessible, reviewable and reproducible during regular business hours, the PAD, materials referenced in the PAD and other information that will constitute the complete application for license, including all exhibits, appendices, and any amendments, pleadings, supplementary or additional information, or correspondence filed by TDX with the Commission in connection with the application.

III. Meetings

TDX shall be responsible for scheduling all consultation meetings involving TDX and Participants. For the meeting specified in 18 CFR Section 4.38(b)(3), TDX will provide the required notice in appropriate local and other forums. TDX will solicit input from Participants on meeting agendas and objectives and will seek to locate meetings to facilitate Participant attendance to most effectively accomplish those objectives.

TDX will notify all Participants of meetings scheduled by TDX at least 30 days prior to the meeting date. This notification may be made in writing, via fax, via email, or by telephone

conversation. Under special circumstances, TDX may hold a meeting with less than 30 days notice.

TDX shall establish the meeting agenda and will strive to provide a written meeting agenda to all Participants at least two weeks prior to a scheduled meeting. Participants may submit comments on the agenda to TDX up to one week before the scheduled meeting. TDX will incorporate any proposed changes to the agenda and will distribute a final agenda at the meeting. In addition, the agenda may be modified at the beginning of the meeting.

TDX and all Participants will strive to make available all documents and other information necessary to prepare for a consultation meeting at least two weeks prior to the scheduled meeting. In the alternative, materials can be provided at the meeting.

IV. Documentation

All of the documentation requirements described below apply to substantive communications regarding the licensing of the Project; communications related to procedural matters (e.g., responding to inquiries regarding meeting scheduling) are not subject to the same documentation requirements.

A. Meeting Summaries

TDX will be primarily responsible for providing a written summary of the matters addressed at all meetings involving TDX and Participants. A draft meeting summary will be distributed to all meeting attendees within 15 days of the meeting. Any corrections to the draft meeting summary should be submitted to TDX within 15 days. TDX will finalize the meeting summary within 30 days after receiving corrections. If no corrections are submitted, the meeting summary will become final 30 days after the date of the meeting. Final meeting summaries will be posted on the licensing website.

B. Oral Communications

Any oral communication (i.e., telephone conversations) between TDX and any Participant regarding any substantive aspect of the Project licensing shall be documented in writing by TDX and included in the public reference file, with a copy provided to those participating in the oral communication.

C. Technical Documents

A variety of technical documents will be produced during the course of licensing consultation, including the Preliminary Application Document (PAD), study plans, study reports, and draft and final license applications. Whenever comments are solicited on documents, review periods will be established and communicated to Participants. Review periods will typically be 30 days, unless longer periods are required by FERC regulations (e.g., 90 day comment period on the draft application). Participants will endeavor to provide comments to TDX within the timeframes specified for comment periods. TDX will consider adjusting comment periods, making them

either longer or shorter, to better utilize available time within the course of pre-filing consultation, without jeopardizing the overall project schedule. Any such adjustments will be made with the concurrence of the Participants.

D. Written Correspondence

Any written correspondence (including e-mails) regarding the licensing of the Project between TDX and Participants will become part of the public reference file.

All written correspondence should be sent to TDX at the following address:

Eric Yould
Chakachamna Lake Project Licensing Manager
TDX Power, Inc.
Ste 402
4300 B Street
Anchorage, AK 99503-5946
e-mail: eyould@alaska.net

With a copy sent to:
Finlay Anderson
Long View Associates, Inc.
4022 NE 8th Avenue
Portland, OR 97212
email: fanderson@longviewassociates.com and Chakachamna@longviewassociates.com

V. Distribution of Licensing Documentation

Distribution of licensing documents will be accomplished primarily by email, except when TDX receives a request for hard-copy mailings. If a Participant does not provide TDX with an email address, or if a Participant has indicated a preference to receive hard-copy mailings, TDX will send paper documents through regular mail. A Participant may also request to receive a paper copy of any specific licensing document by contacting Maxine Blake, by phone at (907) 762-8450 or by email at mblake@tdxpower.com

In addition to distribution to all Participants, all licensing documents will be posted on the licensing website (www.chakachamna-hydro.com). Distribution of licensing documents (aside from brief letters, notices, etc.) will include a copy of the distribution list.

VII. Revisions to the Communications Protocol

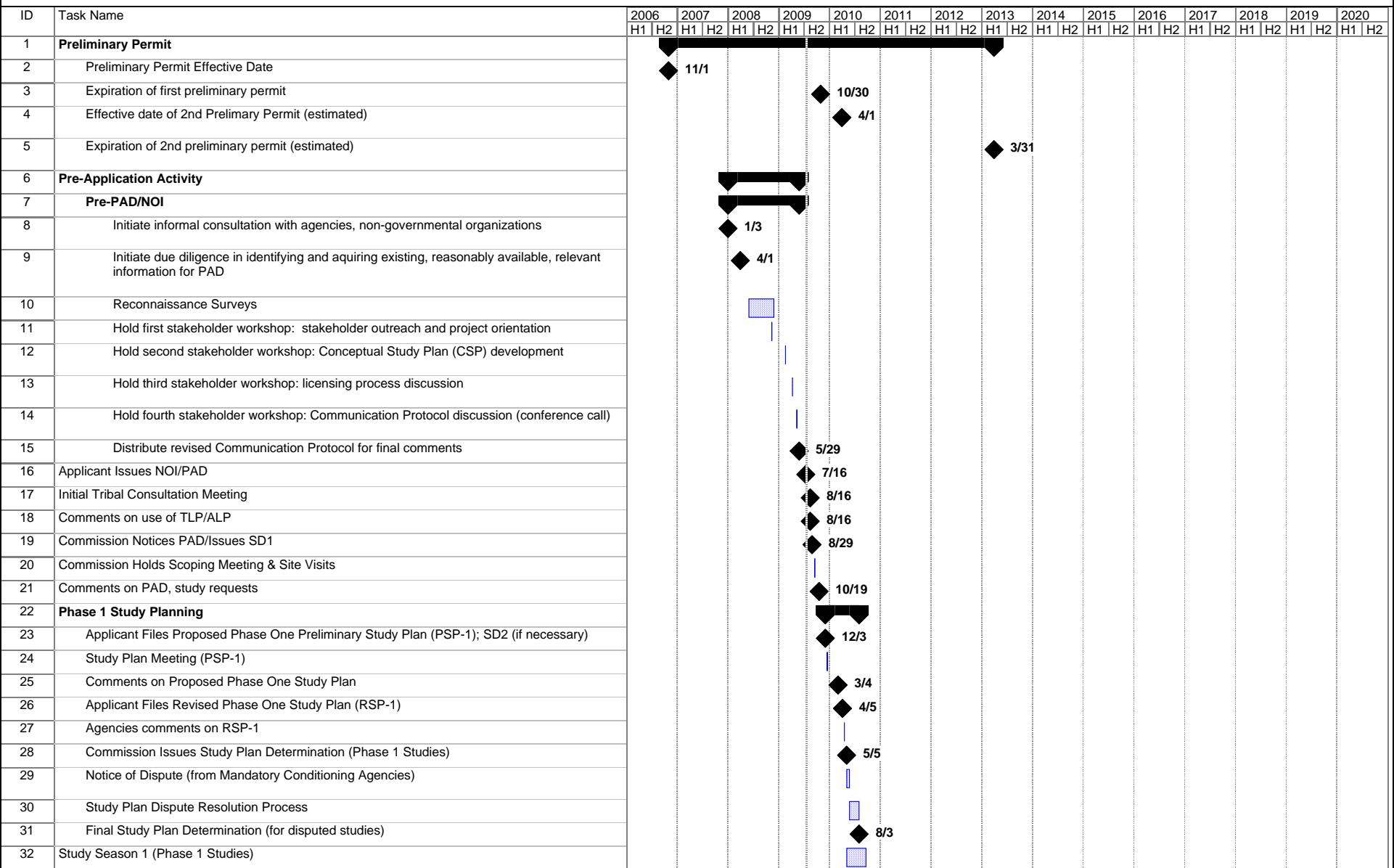
This protocol may be revised at any time upon general agreement of TDX and the Participants.

VIII. Duration of the Communication Protocol

This Communications Protocol will remain in effect until FERC notices that the License Application is accepted for filing.

TDX Power
Chakachamna Hydroelectric Project (FERC No 12660)

Communications Protocol Process Schedule



Project: Communications Protocol-Sch Date: Wed 7/15/09	Task	[Blue Hatched Box]	Milestone	[Black Diamond]	External Tasks	[Grey Box]
	Split	[Dotted Line]	Summary	[Thick Black Arrow]	External Milestone	[Grey Diamond]
	Progress	[Black Box]	Project Summary	[Grey Arrow]	Deadline	[Green Arrow]

