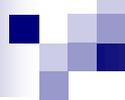




Welcome!

FERC Integrated Licensing Process (ILP) 2010 Effectiveness Evaluation

Technical Conference
Washington, DC
November 3, 2010



ILP Effectiveness Evaluation

Technical Conference Goals

- Share what we've heard about implementing the Integrated Licensing Process
- Seek additional input, build on the feedback gathered through personal interviews, by-sector teleconferences and regional workshops
- Identify what works and explore ideas/solutions to better implement the ILP within the framework of the existing regulations



ILP Effectiveness Evaluation

Process Ground Rules

- Programmatic level discussions— no project-specific discussions
- De-personalized discussions— focus on issues rather than individuals/organizations
- Solutions oriented— focus on the future rather than on the past
- Seek solutions to satisfy mutual interests
- Focus on solutions each sector (Agencies, Tribes, Applicants, NGOs, FERC) can implement to improve the process

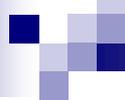
ILP Effectiveness Evaluation

Functional Ground Rules

- Respect all perspectives
- Speak one at a time as recognized by the facilitator
- Avoid side conversations
- Silence cell phones
- Speak into the microphones

For participants on the phone:

- Let us know if you'd like to speak by hitting the # button and we'll put you in the queue
- Please mute your phones to avoid background noise
- Please do not put your phone on hold



Today's Agenda

TOPICS

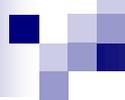
- Study Criteria
- Study Plan Development and Review
- Post-Filing Coordination
- General Good Process Ideas
- Other Issues, New Issues and Ideas
- General Discussion

Strengths of the ILP

- Deadlines and timelines help keep everyone on schedule
- The ILP encourages issues to be resolved locally
- It can be easier to understand than other processes, particularly for stakeholders with a smaller role
- The ILP is strict, but offers some flexibility
- Integrating the NEPA process early is helpful

SEGMENT 1: STUDY CRITERIA

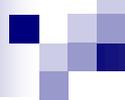




Issues and Challenges:

Study Criteria

- Some feel the criteria help focus efforts on identifying the right studies
- Some suggest that project nexus is either not clear or not consistently applied
- Understanding of the study criteria can vary
- Agencies and NGOs have difficulty accurately estimating costs or levels of effort for their proposed studies



Issues and Challenges:

Study Criteria

- Some feel FERC interprets study criteria differently depending on who submits it
- It is unclear how rigid the study criteria are
 - If a study does not meet them, can it be modified and re-submitted?
- Understanding how cumulative effects are considered with the project nexus criteria is not clear

Suggested Solutions:

Study Criteria

- Meet early with applicants, FERC, agencies, and NGOs to identify baseline information to inform the project nexus evaluation
- If applicants have conducted baseline studies in advance share with all stakeholders
- Conduct an initial tutorial/meeting with FERC for guidance prior to filing the NOI to explain roles, expectations, the process, and study criteria

Suggested Solutions:

Study Criteria

- Have FERC staff involved at the onset of the ILP
- Clarify the process and the study criteria in the scoping meetings
- Clarify project effects and project nexus up-front and frequently
 - Post an explanation of project nexus on the FERC website

Suggested Solutions:

Study Criteria

- Shift the focus to the reason for the study; why is the study important?
- Prepare written guidance clarifying the study criteria; share examples
- Consider project operations and how the project affects resources

Suggested Solutions:

Study Criteria

- Collaborate to submit stronger study requests through working groups
- Prioritize study needs, collaboratively determine which studies are absolutely needed
- FERC and agencies should work together to facilitate studies that are mutually beneficial
- Cost estimation:
 - Develop tools/examples to understand how to put together an accurate estimate
 - Use high, medium, low as an estimate

Discussion: Study Criteria

- Which solutions do you strongly recommend and why?
- Are there other solutions you suggest?
- How can project nexus be better understood?
- Would study request examples that address project nexus be helpful?
- Any additional suggestions on the cost criteria?
- Sector good ideas, what can we each do?

SEGMENT 2: STUDY PLAN DEVELOPMENT AND REVIEW



Issues and Challenges:

Informal Study Plan Process and FERC's Study Plan Determination

- There is a short time period in which to develop the study plans
- FERC study plan determinations are brief with little explanation
- Stakeholders do not have a complete understanding of why studies are rejected

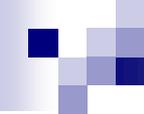
Issues and Challenges:

Informal Study Plan Process and FERC's Study Plan Determination

- The approved study plan does not always satisfy the study needs of mandatory conditioning agencies
- If the applicant and the mandatory conditioning agency agree to a study, but FERC doesn't include it in the Study Plan Determination sometimes there is confusion on whether to conduct the study or not

Suggested Solutions: Studies

- Encourage collaboration to reach agreements on study needs— this helps foster acceptance of study results later
- Develop phased or threshold-dependent study plans
- Have collaborative meetings to try to avoid formal study dispute resolution
- Clarify up front the Federal Power Act and Clean Water Act requirements and how FERC incorporates 401 conditions in the license so participants understand different agencies' needs for studies



Suggested Solutions: Studies

- Study requestors should clarify the specific study needs- thorough requests help
- Have FERC actively participate throughout, particularly on contentious topics

Issues and Challenges:

Formal Study Dispute Resolution and PM&Es

- Formal Study Dispute Resolution is resource intensive within tight timeframes
- FERC's decisions do not always align with the recommendations of the Dispute Panel
- The timeframes and opportunities for comment can be unclear, not fully understood
- It is challenging to complete studies and develop PM&E measures in time to file with the license application, much less filing them with the DLA/PLP

Suggested Solutions:

Formal Dispute Resolution and Developing PM&Es

- Encourage Dispute Resolution Panels to find additional information to help form conclusions
- Clarify with participants the schedule and process for formal dispute resolution
- Meet regularly to discuss study results and potential PM&Es to help manage time and the amount of information requiring review
- Discuss potential PM&Es prior to all study results being available

Suggested Solutions:

PM&Es and Developing Applications

- Create a schedule of when study results will be ready for review
- Seek a waiver of the PLP/DLA, if fully supported by stakeholders
- Incorporate draft management plans in the PLP/DLA so stakeholders can provide input into the final plans included with the license

Discussion:

Formal Study Dispute Resolution, PM&Es/ Application Development

- Which solutions on Formal Study Dispute Resolution and PM&E development do you strongly recommend?
- What actions do you recommend to encourage stakeholder collaboration during study planning & PM&E development?
- Are the Initial Study Report (ISR) and Updated Study Report (USR) useful to the study reporting process?
- Are there additional solutions you suggest?
- Sector good ideas, what can we each do?

LUNCH BREAK

Please return by
1:15 pm (Eastern Time)

*Note: No food or drink
allowed in the Commission
Meeting Room*



SEGMENT 3: POST-FILING COORDINATION



Issues and Challenges:

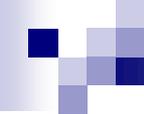
Post-Filing

- The regulatory steps post-filing (ESA, 401, 4(e), FERC), how they are linked, and how they affect schedules is not always clear and understood
- Improved coordination of regulatory processes has not been as successful as intended
- Some ESA and 401 agencies suggest that the FERC environmental document is not developed in a way that suits their needs
- State and federal resource agencies have staffing constraints that make timely processing challenging
- It is unclear when and how stakeholders may comment and stay involved

Suggested Solutions:

Post-Filing

- Have FERC and agencies discuss environmental information and analysis needed in the NEPA document to support other agencies' requirements (ESA, State 401, 4(e), etc.) up-front
- Improve timing and coordination between state and federal agencies and FERC on licensing needs
- Begin coordination among FERC and the agencies as early as possible to identify key goals and deliverables
- Increase coordination pre-filing



Suggested Solutions:

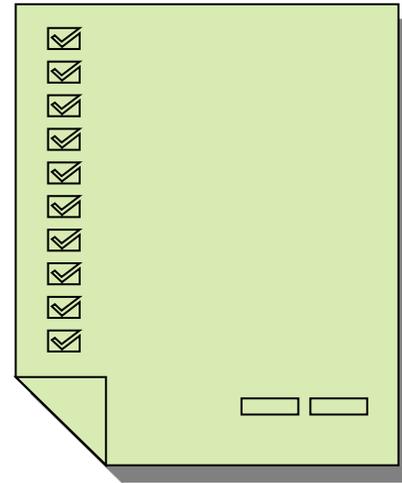
Post-Filing

- Establish a coordinated interagency timeline
- Seek support for resource agency staffing
- Provide more robust communication tools to keep stakeholders aware of process and milestones

Discussion: Post-Filing

- Which solutions do you recommend?
- Are there other solutions you suggest?
- What can be done to improve the timely issuance of water quality certifications and completion of ESA consultation?
- How can the process and timelines be more transparent, clear?
- What tools would help clarify and continue project updates?
- Sector good ideas, what can we all do?

SEGMENT 4: GENERAL GOOD PROCESS IDEAS



Issues and Challenges:

Process

- Those who are new to the ILP may not understand it, their role, or how to participate
- The coordination between FERC, agencies and stakeholders can be unclear
- The timeframes seem to be too limiting to achieve all the requirements



Issues and Challenges:

Process

- Sometimes decision makers are not familiar with the project area
- Not all stakeholders are involved early
- Not all applicants appreciate the value of collaboration prior to the NOI
- Scheduling meetings so all can participate can be challenging

Suggested Solutions:

Process

- Timely updates and a good process for sharing information is important for efficient use of resources; such measures include:
 - Developing a website to share documents and meeting information
 - E-mailing updates between meetings
 - Registering for FERC's eFiling and eNotification
 - Issuing revised documents that clearly show changes and why
 - Provide reminders of process steps and deadlines throughout

Suggested Solutions:

Process

- Encourage applicants to cast a wide net to involve stakeholders early and throughout pre-NOI
- Communication
 - Scheduling tools; ask stakeholders about their availability (ex: Doodle polls)
 - Schedule meetings up front, and cancel if not needed.
 - Use webinars and teleconferences, although in person meetings are preferred

Suggested Solutions: Process

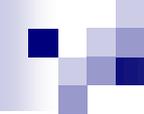
- FERC Guidance
 - Provide a clear understanding of expectations of all participants early in the process
 - Opportunities for Guidance: FERC website, trainings, and scoping meetings
 - Adjust the FERC website so you can search by project name as well as license number

Suggested Solutions:

Process

Early Meetings and Collaboration

- FERC could meet with stakeholders prior to the NOI on the process and schedule
- Have applicants and stakeholders collaborate prior to the NOI
- Have FERC attend initial meetings with stakeholders
- Consider forming resource-based work groups to develop study plans and develop recommended PM&E measures
- Identify stakeholder interests up front; clarify throughout the process

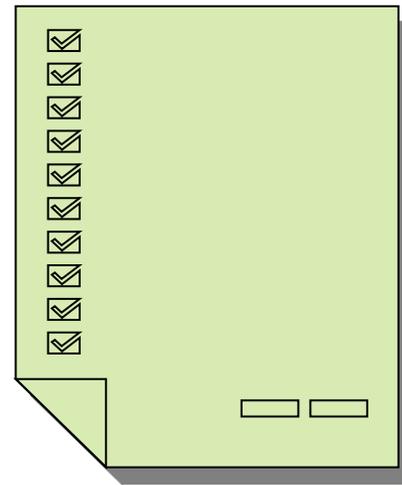


Discussion:

General Good Process Ideas

- What solutions do you strongly recommend?
- Are there other solutions you suggest?
- Sector good ideas, what can we each do?

SEGMENT 5: OTHER ISSUES, NEW ISSUES AND IDEAS



Challenges to Successful Participation in the ILP

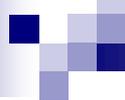
- The ILP timeframes do not always factor in seasons needed for studies
- Those who are allowed to file formal study disputes are limited in number
- The process moves quickly and requires resources to be able to be fully engaged
- For large, complex projects the timeframes can be challenging
- For original license/projects and/or hydrokinetic projects with less clear project descriptions or consistent funding the ILP timeframes can be challenging.

Suggested Solutions for the ILP

- Prepare project specific informational materials to help inform participants
- Provide neutral facilitation support to prepare meeting summaries, track actions and keep participants aware of the deadlines
- Build and maintain relationships throughout the process
- Allow more stakeholders to be involved in the dispute resolution process or an opportunity to submit comments/information
- Encourage collaboration

Suggested Solutions for the ILP

- Begin early
- If an applicant intends to develop a settlement agreement with stakeholders, communicate this upfront
- Offer guidance on what to include to justify using the TLP process rather than the ILP so it is less onerous
- Educate small hydro or new hydro developers so they better understand the ILP process



Discussion:

Other Issues, New Issues and Ideas

- What solutions do you strongly recommend?
- Are there additional solutions you suggest?
- Sector ideas, what can we each do?

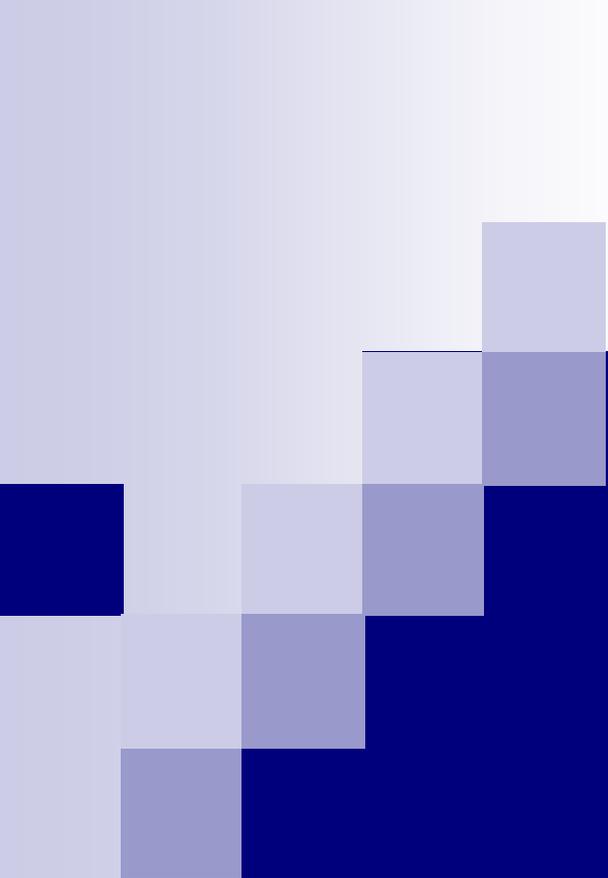
General Discussion

- Questions & Answers
- Areas of Interest
- Recommendations?



Upcoming ILP Effectiveness Evaluation Initiatives

- Information compiled will be incorporated into the FERC ILP Best Practices Guidebook
- Learn more about the ILP Effectiveness Evaluation and track upcoming events by following Docket # AD10-7-000.
- Visit the FERC ILP Effectiveness Evaluation website for more information:
<http://www.ferc.gov/industries/hydropower/gen-info/licensing/ilp/eff-eva.asp>



Thanks for your participation!

Please direct further questions and comments
to Kearns & West

Contact Stephanie Obadia at ILP@kearnswest.com
or (202) 535-7800