

# **COMMUNICATIONS PROTOCOL**

## **Takatz Lake Hydroelectric Project**

**FERC No. 13234-000**

**City and Borough of Sitka Electric Department**

**November, 2008**

### **INTRODUCTION**

The City and Borough of Sitka Electric Department (“City”) holds a Preliminary Permit (“Permit”) from the Federal Energy Regulatory Commission (FERC, Commission) for the proposed Takatz Lake hydroelectric project (“Project”), FERC No. 13234-000-AK. The Permit preserves the City’s rights to conduct feasibility studies for the Project for a period of 36 months beginning September 19, 2008, the Permit’s issuance date.

The Permit included the requirement for the City to utilize the Commission’s Integrated Licensing Process (ILP) as described in 18 CFR, Chapter 1, Section 5.5 of the Federal Regulations. The Permit also states that an Applicant may utilize either of two other licensing methods, the Traditional (TLP) or the Alternative Licensing Process (ALP) on approval by the Commission.

For the Takatz Lake Project, the City has decided to request use of the ALP. An applicant’s request for use of ALP must include documentation of approval by Project Stakeholders, of both the licensing process and a Communications Protocol (CP) governing communications during the pre-filing period.

### **LICENSING PROCESS DESCRIPTIONS**

#### **ILP**

The efficiencies expected to be achieved through the ILP are founded in three fundamental principles:

- Early issue identification and resolution of studies needed to fill information gaps, avoiding studies post-filing;
- Integration of other stakeholder permitting process needs; and
- Established time frames to complete process steps for all stakeholders, including the Commission.

## **ALP**

As part of the alternative licensing process, an applicant can:

- Tailor the pre-filing consultation process to the circumstances of each case;
- Combine into a single process the pre-filing consultation process and environmental review processes under the National Environmental Policy Act and other statutes; and
- Allow for preparation of a preliminary draft environmental assessment by an applicant or an environmental impact statement by a contractor chosen by the Commission and funded by the applicant.

Having successfully utilized the ALP for the Blue Lake Hydro Project (FERC No. 2230) relicensing, the City believes it can achieve the objectives of ILP while implementing the ALP on the Takatz Lake Project.

Under the ALP, the City would, with FERC direction and approval, conduct **NEPA Scoping** (the public participation process to solicit comments on environmental issues) and prepare and submit a **Preliminary Draft Environmental Assessment (PDEA)** with the license application. The **Final EA**, which will serve as the basis for conditions of the new license, will be prepared by the FERC after their independent review of the PDEA and project record.

## **PARTICIPATING in the LICENSING PROCESS**

Under the ALP, the licensing process is open to the general public and their participation is encouraged. A Participant List will be compiled by the City and expanded as new Participants request inclusion in the ALP.

The ALP affords Participants the opportunity to interact with the licensing process at several distinct points, including: 1) public meetings; 2) coordinated meetings 3) document review and comment; and 4) access to general information regarding process, schedule, and status. The City will use several means to assure access to licensing material, as described in the following sections.

## **PUBLIC REFERENCE FILES**

There will be two public reference files, one in Sitka and the other at the Commission offices in Washington D.C. The reference files will be maintained on a monthly basis and will include, but not be limited to: semi-annual progress reports (described below), study plans and reports, preliminary data files, meeting announcements, agendas and summaries, draft and final technical reports, draft and final EA's and license applications,

written correspondence and telephone discussion notes. The addresses of the Public Reference Files are:

City and Borough of Sitka, Electric Department  
105 Jarvis Street  
Sitka, Alaska, 99835

and

Federal Energy Regulatory Commission  
Public Reference Room, Room 2-A  
Attn: Secretary  
888 First Street, N.E.  
Washington, D.C. 20426

All materials in the reference files will be available for review and copying by request. All communications added to the Public Reference File will be available to the public consistent with the public records procedures set forth in the Freedom of Information Act. Most materials will also be available on the FERC website ([www.ferc.gov](http://www.ferc.gov)). Individual project information is available on the FERC website at the **elibrary** link by inputting the Project number (P-13234)

### **THE TAKATZ LAKE PROJECT LICENSING WEBSITE**

The City will develop and maintain a Takatz Lake Project licensing Website at which most Project material be made available. The licensing Website will contain:

- Project Description;
- Description of the licensing Process and ALP;
- Licensing Schedule;
- Notices of Public and Coordinated Meetings;
- Notices of Availability of Documents for Participant Review;
- Semi-Annual Progress Reports;
- Monthly Status Updates;
- Current Participant List;
- Tracking File (record of all licensing transactions)
- Other features, as deemed necessary.

### **NEED for TIMELY NOTIFICATION and REVIEW**

For this process to succeed, it is important that the interaction opportunities are announced to the Participants, and that the Participants provide timely comment and information at each opportunity. It is also important that Participants have sufficient access to general information. In the following, we describe the protocols to address these needs.

## **MEETINGS and SITE VISITS**

Meeting events (Scoping and others) to present information and obtain comments from the public and stakeholders will be held at various points during the licensing. Two public meetings will be held during the Project licensing. The first event, consisting of two "Initial Stage Consultation" meetings (one in Juneau and one in Sitka) and a site visit, will tentatively be held during Spring, 2009. Notice of the meetings and site visit will be placed in the Sitka Sentinel and the Juneau Empire newspapers more than 15 days prior to the events. The City will prepare draft summaries of the Initial Consultation meetings and site visit, and circulate them among attendees for review and comment.

The other scheduled licensing meeting event will be the Scoping meeting and site visit, presently scheduled for Fall, 2009. Notice of the Scoping meeting and site visit will be posted on the Takatz Lake Project Website (described above), on the Sitka Electric Department and City Administration Building Bulletin Boards and published in local newspapers, specifically the Juneau Empire and the Sitka Sentinel. The Commission will also publish notice of the Scoping meeting and site visit in the Federal Register. All notices will be posted at least 30 calendar days in advance of the meeting date. The City will also serve notification of the Scoping meeting and site visit via e-mail to all those on the Project's Participant List. The City will transcribe the Scoping meeting on videotape, and tape copies will be available to all Participants on request.

Comments in the approved meeting summary will be considered the speaker's formal comments if they choose not to provide written comments. Scoping Participants will be given at least 30 days to provide written comments on the Scoping meeting and related written material.

## **COORDINATED MEETINGS**

Meetings between and among licensing Participants may occur on an "as needed" basis. If a City representative is present at the meeting, the City will prepare a meeting summary. If the City is not present at the meeting, the person who requested the meeting will prepare the meeting summary.

## **MEETING SUMMARIES**

Draft Meeting Summaries for all public and coordinated meetings will be circulated to all meeting Participants for review and comment within 15 days after the meeting. Comments will be incorporated into a Final Meeting Summary, with the goal of agreement among all Participants on its content. Deadlines for preparation of drafts, returning comments, and submittal of a final summary will be agreed upon by Participants at each meeting. Final Meeting Summaries should be e-mailed to the City at the contact address on page 6, for inclusion in the City's Tracking File and Licensing Website. All Draft and Final Meeting Summaries will be available on the Licensing Website and in hard copy by request.

## DOCUMENT AVAILABILITY

### MAJOR DOCUMENTS

Throughout the licensing process, Participants will be afforded opportunity to review and comment on documents prepared in the course of the licensing process. While it is not possible to envision an exact list of documents for review, the City expects to prepare and distribute the major documents shown in Table 1 prior to the application for license.

Most licensing-related written material will be available in electronic format and will be electronically distributed directly to Participants via email with attachment. Documents will be in MS Word or Adobe pdf format. Much of the same material will be available through the Takatz Lake Project Licensing Website. In all cases, however, Participants may request printed copies of major documents. Printed copies of Scoping Documents, the Draft Application, Preliminary Draft EA or EIS, FERC Draft EA and FERC Order Issuing License will also be available at the public library in Sitka and the state library in Juneau.

Most major documents will be available in either text or Adobe pdf. on the FERC website. To access documents on this website, go to [ferc.us.gov](http://ferc.us.gov) and then to “elibrary” on the home page. This will open a search page offering several search options.

The review period for major documents will be no less than 30 days, unless longer periods are required by FERC regulations, or if individual agencies formally request more review time.

**Table 1.** Major documents to be made available for review during Takatz Lake Project licensing.

Document Name	Expected Date of Issue	Description
<b>Pre Application Document (PAD)</b>	January-February, 2009	Document with Project description, licensing schedule and preliminary resource issues.
<b>Study Plans</b>	Spring, 2009	Describe detailed objectives, methods and required reporting for various environmental field and office studies
<b>Scoping Document I (SD1)</b>	Fall, 2009	A document describing the Project, licensing process, and environmental and economic issues related to licensing

<b>Study Reports</b>	2009-20012	Present results of the environmental studies, usually on an annual basis
<b>Draft Application for License</b>	Fall, 2010	Documents describing various design and operation aspects of the project, as proposed for licensing
<b>Preliminary Draft EA</b>	Fall, 2010	Accompanies Draft Application, describes existing environment, licensing impacts and mitigation proposals.
<b>Final License Application</b>	Sept. 2011	Incorporates all agency comments and presents Applicant's Preferred Alternative and proposed PM&E measures.
<b>FERC Draft EA</b>	2012	FERC-prepared EA noting issues, impacts, mitigation and recommendations.
<b>FERC Order Issuing License</b>	Dec. 2013	Contains FERC's Final EA and Licensing Order as well as License Articles and other Conditions.

### **MINOR DOCUMENTS and CORRESPONDENCE**

Throughout the licensing process, the City will communicate frequently with Participants, individually and collectively. These communications may include written material such as meeting notices and summaries or other small documents relevant to the communications. Minor documents (with exception of Status Reports) will become part of the public record after review, editing and approval by participating parties. Transfer of minor documents will be primarily in the form of e-mail, often with attached files, and via the Takatz Lake Project Website. The City will follow certain e-mail transmittals with a phone message check to assure that the messages were received and in readable format.

## COMMUNICATIONS PROTOCOLS

In this section, we describe conditions governing communications among licensing Participants. The Protocols are intended to assure that interactions are appropriate, effective and properly documented.

### WRITTEN COMMUNICATIONS

All written communications that need to be part of the public record, including comment letters, progress reports, fax communications, meeting summaries, and teleconference summaries, or in which any party intends to become part of the formal record, should be mailed to:

City and Borough of Sitka Electric Department  
Attn: Christopher Brewton, Utility Director  
105 Jarvis Street  
Sitka, Alaska, 99835  
Phone: 907-747-1886  
Fax: 907-747-3208  
Email: [chrisb@cityofsitka.com](mailto:chrisb@cityofsitka.com)

With a copy to [deano@cityofsitka.com](mailto:deano@cityofsitka.com)

All written communications must have the following clearly displayed on the first page, preferably in the “Subject” line of the correspondence:

#### **Takatz Lake Hydroelectric Project (FERC No. 13234)**

Written communications must display deadlines for comments or other actions (when applicable) and should reference the corresponding activity of the licensing process associated with the written communication (for example., “Comments on Scoping Document I”, “Summary of Study Planning Meeting”, etc.) in the “Subject” line of the correspondence. Communications must indicate where to submit responses, when applicable. Copies of all written communications will be placed in the Public Reference File. A distribution mailing list will be sent with each formal correspondence or document that shows all recipients who were sent a copy.

The Commission will from time to time advance the number following the Project number to indicate a different licensing action phase (for example, FERC No. 13234-001, 13234-002, etc.) Participants should check Commission and the City correspondence closely to assure that the proper Project numbers are identified when referencing a particular document.

## **TELECONFERENCE COMMUNICATIONS**

Periodic teleconference calls among licensing Participants may occur on an “as-needed basis”. If the communication is between an agency and either the City or the Commission, the party initiating the call will forward a written summary of the call to the City at the contact address on page 6, to be included with the Public Reference File(s). Participants will be noticed and given the opportunity to participate in any communications the City makes with FERC on substantive matters concerning the licensing. Documentation of teleconference calls between the City and the Commission will be included in the Public Reference File, with a summary written by the party initiating the call.

## **INTER/INTRA RESOURCE AGENCY STAFF COMMUNICATIONS**

Written communications, meetings, telephone conversations, or other types of communications within or between State or Federal resource agency staff concerning the Takatz Lake Project licensing are not subject to the scheduling, notification, and documentation requirements of previous sections this CP. It is understood that such communications will not be part of the licensing record unless they are submitted to the Commission by a participating agency. However, in the spirit of openness reflected in this CP, the City encourages agencies to submit records of such meetings and communications to the Contact Address on page 6 as often as possible during the licensing.

## **COMMUNICATION WITH COMMISSION STAFF**

The Commission recently revised its ex-parte rules (88 FERC para. 61,225) and determined that the rule prohibiting off-the-record communications does not apply to interactions during the ALP. This is because all actions under ALP occur before a license application is filed, prior to the Noticed “licensing procedure” at the Commission. However, in this CP’s spirit of open interaction, oral communications by any participant with FERC staff should be summarized in a written memorandum prepared by a Participant agreed upon among those involved in the communication, and distributed to the Project Participant list for review.

## **ORAL COMMUNICATIONS AND E-MAILS**

Oral communications (i.e. telephone conversations) between the City and any Participant will be documented in writing (see “Contact Logs”, below) if communications regard substantive aspects of the project licensing. Similarly, e-mails between the City and any Participant on substantive Project issues will also be documented. All written communications distributed by parties to the CP shall enclose or attach a distribution list for that communication that identifies all recipients of that communication. The cc list on an e-mail message can serve as the distribution list.

## **DISPUTE RESOLUTION**

Dispute prevention is preferable to dispute resolution. However, when disputes arise, it is intended that efforts to resolve a dispute focus on alternative dispute resolution methods. These may include the use of a facilitator, as described in the following: **Compromise and Good Faith Efforts**

In the interests of reaching agreement, Participants are expected to make compromises in some areas. This means that Participants will make good faith effort to address the concerns of others so that most Participants can agree or live with the interim outcomes and do not object to the terms and conditions. It is recognized that each Participant may not find the resulting decision or settlement to be optimal in relation to their preferred outcome, but that the overall outcome will be beneficial to their interests as well as those of the other Participants.

### **Informal Efforts to Resolve Disputes**

If disputes cannot be resolved through good faith efforts, a mutually agreed upon facilitator may be assigned. The facilitator and stakeholders should make every reasonable effort to resolve disputes amongst Participants including: facilitator's use of alternative dispute resolution techniques, e.g., offline mediation by the facilitator; determining whether additional study or analysis could be undertaken to provide new information necessary to resolve the dispute; referring a technical matter to a third party expert or for peer review; identifying potential trade-offs to satisfy one of the disputing Participants; and, forming a workgroup to focus specifically on the matter in question.

Participants that are in substantive dispute will schedule a separate meeting/conference call, open to all interested parties, to discuss and resolve their differences. Unless the parties agree that it is unnecessary, a facilitator must be present at a meeting as an independent note taker.

## **STATEMENTS to the MEDIA**

Communications by the participants to the media will generally not be maintained in the Public Reference File. No person or entity involved in the alternative licensing process is authorized to make a statement on behalf of any other person or entity to any media person or entity with regard to the process or any substantive issue affecting the relicensing application. When a representative for a participant speaks to the media about the Project process, s/he should preface comments with: "I speak only for \_\_\_\_\_ and not for any other participant in the Takatz Lake Hydroelectric Project licensing process."

## **DURATION OF COMMUNICATIONS PROTOCOL CONDITIONS**

This CP shall become effective upon the Commission's approval of the City's request to use the Alternative Licensing Process. Until then, the City and the participants shall act in good faith to recognize the likely future acceptance of this Protocol and its obligations. This Protocol will remain in effect until the Commission notifies the City the Preliminary Draft Environmental Review Document and Final License application are accepted for filing with the Commission or until termination of the ALP. Participants may elect by consensus, including unanimous consent of the Resource Parties, to extend the duration of this Protocol until license order issuance.

## **RESERVATION of RIGHTS**

This Protocol is made (and filed with the Commission), and the collaborative process is undertaken, without prejudice as to any rights or interests of any participant and with a full reservation of rights by and on behalf of any and all participants. No participant shall be deemed to have waived any legal right or evidentiary claim or privilege by participation, statement or act in this process by the participant or its representatives. Nothing in this Protocol shall be construed to limit any governmental agency from complying with its obligations under applicable laws or from considering public comments received in any environmental review or other regulatory process. This process shall not be interpreted to in any manner predispose or predetermine the outcome of any permit or environmental review process.

## **CONTACT LOGS**

Contact log sheets will be utilized to document substantive oral communications among the Participants, the City or the Commission. Contact log sheets will include: individual(s) involved; title(s); date of communication; subject of communication; issues discussed; and action(s) to be taken.

## **REVISIONS of the CP**

Upon written approval by the City and the signatories, this CP may be revised as deemed appropriate throughout the licensing period. No changes will be made to the CP without notification of all Participants. All proposed procedural changes will be distributed in writing to all Participants for review and comment. If comments represent a consensus of opinion on the proposed change(s), the Protocol will be modified, and the revised version distributed to the Participants list. In case of a dispute over proposed changes, the City will convene a meeting or teleconference among affected participants.

## **SEMI-ANNUAL PROGRESS REPORTS**

The City will file with the Commission every six (6) months, a progress report that will summarize the Project status at the end of the previous 6-month reporting period. Each report will include the following for the forgoing 6-month period:

- An updated log of oral and written communications;

- Descriptions of all major action taken on the project;
- Copies of all comment letters and other written correspondence, including those with the Commission staff;
- Copies of all meeting summaries and teleconferences call records, including those with Commission staff;
- Schedule for the next 6-month licensing period, including action items;
- Other information pertinent to the licensing.

Each 6-month progress report will be placed in the Project Public Reference Files and on the Licensing Website. Each Participant will receive a copy of the cover letter submitting the progress report to the Commission along with a log of all communications filed for that period. Any Participant may request a copy of any item on the log from the City.

**COMMUNICATIONS PROTOCOL APPROVAL**

**TAKATZ LAKE HYDROELECTRIC PROJECT**

**FERC No. 13234-000**

I have read and agree to follow this Communications Protocol proposed by the City and Borough of Sitka Electric Department to guide communications and information exchange between the Participants in the ALP for the Project.

**SIGNATURE**

**AGENCY/ORGANIZATION**

**DATE**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNATURE PRINTED**

**AGENCY/ORGANIZATION PRINTED**

\_\_\_\_\_

\_\_\_\_\_

I accept the conditions of this communication protocol

I do not accept the conditions of this communication protocol

Reasons, if any: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Written comments must be sent to the FERC address below. To file in writing to the FERC you must send an original and eight (8) copies of your comments to the following address:

The Secretary  
Federal Energy Regulatory Commission  
888 First Street  
Washington, D.C. 20426

We would appreciate your also sending your approval to:

City and Borough of Sitka Electric Department  
Attn: Christopher Brewton, Utility Director  
105 Jarvis St. Sitka, AK, 99835  
[chrisb@cityofsitka.com](mailto:chrisb@cityofsitka.com)  
[cc: deano@cityofsitka.com](mailto:deano@cityofsitka.com)

You may also file your comments via email using FERC's "efiling" facility. To efile comments, log on to "ferc.gov" and follow the links to "efiling". If you have questions on the efile process, please contact Anji Russell, Electric Department administrative assistant, at 907-747-1882, or via email at: [anjulie@cityofsitka.com](mailto:anjulie@cityofsitka.com).