



Development of the State Water-Power Licensing Program

By

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Outline of Presentation

- History of the Proposed Program.
- Projects that are Eligible for State Program.
- Requirements that State Program will have to address.
- Where are We?



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History of the Proposed Program

- 2/11/99 – Senator Frank H. Murkowski introduced a bill [S.422] entitled “A bill to provide for Alaska state jurisdiction over small hydroelectric projects”.
- 11/9/00 – The Federal Power Act was amended by adding section 32 [16 U.S.C. 823c] entitled “Alaska State Jurisdiction over Small Hydroelectric Projects”.



History of the Proposed Program

- 3/13/01 – Senators Torgerson, Taylor, Austerman, and Cowdery introduced SB 140 entitled “An Act relating to regulation and licensing of certain water-power development projects; and providing for an effective date”.
- 1/31/03 – AS 42.45.350 became effective.
 - States that the RCA shall adopt regulations to establish a regulatory program for qualifying water-power development projects.



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Projects that are Eligible for State Program

- Projects that are not part of a project licensed by FERC before November 9, 2000.
- Projects already in process with FERC before November 9, 2000, unless the application is withdrawn at the election of the applicant.
- Projects that are part of a project that has a power capacity of 5,000 kilowatts (5 megawatts [MW]) or less.



Projects that are Eligible for State Program

- Projects that are located entirely within the boundaries of the state of Alaska.
- Projects that are not located in whole or part on an Indian reservation, a conservation system unit as defined in 16 U.S.C. 3102 (sec. 102, Alaska National Interest Lands Conservation Act), or on a segment of a river designated for study for addition to the National Wild and Scenic Rivers Systems.



Projects that are Eligible for State Program

- In the case of nonqualifying project work that would be qualifying project work but for the fact that the project has been licensed or exempted from licensing by FERC before November 9, 2000, the licensee of the project **may** elect to make the project subject to licensing and regulations by the state.







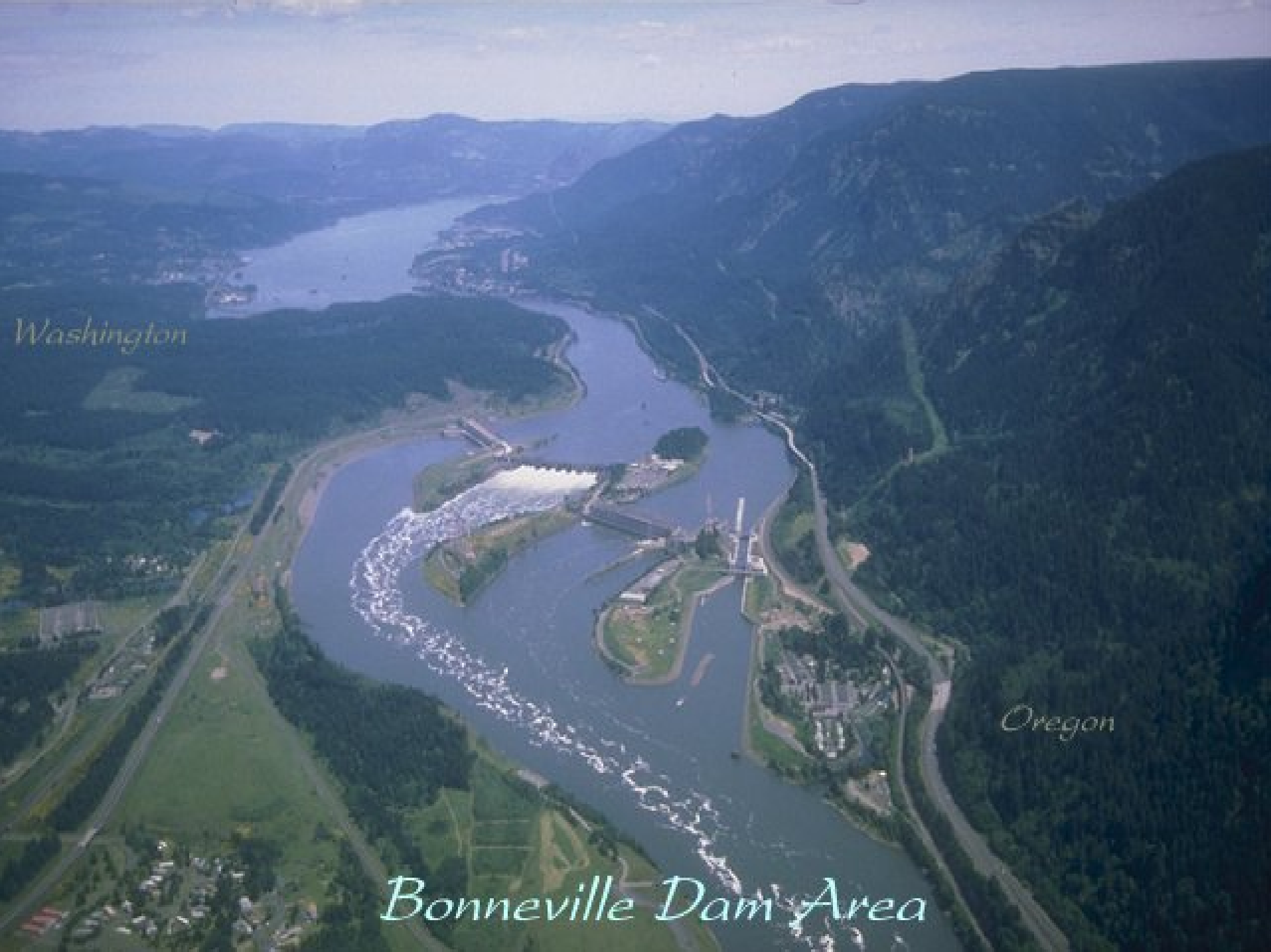
Requirements that State Program will have to address

- The regulations must protect the public interest and environment to the same extent provided by the Federal Power Act, the Endangered Species Act, the Fish and Wildlife Coordination, and other applicable federal laws.



Requirements that State Program will have to address

- We must give equal consideration to:
 - Energy conservation;
 - The protection of, mitigation of damage to, and enhancement of, fish and wildlife, including related spawning grounds and habitat;
 - The protection of recreational opportunities;
 - The preservation of other aspects of environmental quality;
 - Interests of resident Alaska Natives;
 - Other beneficial public uses, including irrigation, flood control, water supply, navigation; and
 - The interest of Alaska residents and landowners.



Washington

Oregon

Bonneville Dam Area



Where are We?

- Order Docket R-03-5 (1) was issued on January 2, 2004.
- The first comment period ended on January 28, 2004.
- Seeking volunteers to participate in a committee to provide verbal and/or written comments on the development of the proposed regulations.



Where are We?

- Requested comments on the following questions:
 - Can you and/or your organization attend a workshop, and are you willing to provide written comments?
 - What are the institutional, regulatory, financial, and legal factors at the federal and state levels that either encourage or impair the development of a state licensing program?





Where are We?

- Requested comments on the following questions [Continued]:
 - In the protection of the public interest and the environment, the RCA is required to give equal consideration to energy conservation; the protection of, mitigation of damage to, and enhancement of, fish and wildlife, including related spawning grounds and habitat; the protection of recreational opportunities; the preservation of other aspects of environmental quality; the interests of resident Alaska Natives; other beneficial public uses, including irrigation, flood control, water supply, navigation; and the interest of Alaska residents and landowners.



Where are We?

- Requested comments on the following questions [continued]:
 - Should we give equal consideration to additional issues?
 - Are there any of the above issues that in your opinion be given a higher priority than others?
 - How can we fairly consider these factors in a licensing process at the state level efficiently?



Where are We?

- Requested comments on the following questions [continued]:
 - Should any proposed state licensing program be patterned after the existing federal licensing processes?
 - Currently FERC is classifying water-power development facilities as either exempt, minor, and major projects. Should the state program follow, modify, or develop it own classification of facilities?



Lower Granite Lock & Dam



Where are We?

- Frequent submitted comments indicate:
 - There is support and interest for the formation of the committee.
 - Support the need to fund the state resource agencies not only during the development of the regulatory program but also during the implementation of the program to ensure the state can retain qualified staff.



Where are We?

- The first three workshops were completed last week.
 - February 2, 2004; Anchorage; 19 attended
 - February 4, 2004; Juneau; 17 attended
 - February 6, 2004; Fairbanks; 3 attended
- Once the transcripts are received, staff will start putting together the information provided by the public from the 3 workshops.



Where are We?

- Preliminary comments from the workshops:
 - Strong support for the formation of a committee
 - Recommend using the Integrated Licensing Process as a starting point for the development of a state licensing process
 - How will the program be funded?





Questions?

- Are you interested in receiving future orders or notices?
- Are you interested in becoming a committee member?
- Who can I contact if I have questions?



Contact Information

- RCA staff to contact:
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*image (c) 2002 Darwin Durek
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*This is the Bonneville Dam Spillway, as viewed from the Washington State
side of the Columbia River, on state Highway 14, looking eastward.*