

# Development of the State Water- Power Licensing Program

Presented to:

Alaska Energy Task Force

February 24, 2004

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# Outline of Presentation.

- Requirements!
- Order R-03-5(1) Responses.
- Workshop Responses.
- Next Steps.
- Contact Information.

# Requirements !

- 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.
  - Other applicable federal laws?
    - Clean Water Act [Section 401]
    - National Environmental Policy Act
    - Wild and Scenic Rivers Act
    - National Historic Preservation Act
    - Coastal Zone Management Act
    - Alaska National Interest Lands Conservation Act
    - Magnuson-Stevens Fishery Conservation & Management Act

# Requirements !

- 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.

# Order R-03-5(1) Responses.

- Order 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.

# Order R-03-5(1) Responses.

- ***Can you and/or your organization attend a workshop, and are you willing to provide written comments?***
  - “We will assist the RCA in any way possible to craft a program that corrects as much as possible the deficiencies of the current regulatory program by the FERC.”
  - “We offer our assistance as you design a regulatory program for small hydropower projects. We are willing to participate in a committee, as proposed in your Notice.”

# Order R-03-5(1) Responses.

- ***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?***
  - “Section 501 of the Energy Act of 2000 appears to preserve the mandatory conditioning authority currently exercised by federal agencies.”
  - “NEPA requires that FERC analyze the impacts of the proposed action. RCA must establish an environmental assessment process equal to NEPA.”
  - “Sufficient funding will need to be identified to provide the resources that state agencies will need to implement the program.”



# Order R-03-5(1) Responses.

- ***Should we give equal consideration to additional issues?***

- “The catchall phrases “the preservation of other aspects of environmental quality” and “other beneficial uses” pretty well incorporate any additional issues. Nevertheless, we suggest the following issues should be explicitly considered: air quality, socioeconomic impact of electric rates, and fossil fuel usage, including global warming impacts.”
- “Assuring adequate fish passage is an important legal mandate. The final regulations should specifically discuss fish passage.”

# Order R-03-5(1) Responses.

- ***Are there any of the above issues that in your opinion be given a higher priority than others?***
  - “The most important environmental issue regarding hydroelectric projects is instream flows.”
  - “We recommend that the State regulations specify the type and quality of data that should be provided to the resource agencies in order to allow us to prescribe appropriate fishways.”
  - “Regulations should clarify when and how coordination should occur between the applicant and the agencies, and the information and funding that should be exchanged.”

# Order R-03-5(1) Responses.

- ***How can we fairly consider these factors in a licensing process at the state level efficiently?***
  - “It will be critical for the state to hire personnel with considerable experience with hydroelectric development for a state program to be successful.”
  - “The cost of studies and the rationale to conduct them at all.”
  - “Time is the enemy of enterprise. The long time lines to achieve permitting for relatively simple processes has the effect of killing decisions where governmental agencies are involved.”

# Order R-03-5(1) Responses.

- ***Should an proposed state licensing program be patterned after the existing federal licensing processes?***
  - “The state licensing program must correct the deficiencies of the FERC licensing process – that should be the guiding principle during development of the state’s program.”
  - “The transition from participation in a federal licensing process to implementing a state process will be most efficiently done by improving on an established model. Demonstrating compliance with federal and state law will be simpler if the programs are comparable.”

# Order R-03-5(1) Responses.

- ***Currently FERC is classifying water-power development facilities as either exempt, minor, and major projects. Should the state program follow, modify, or develop its own classification of facilities?***
  - “The state should have a single classification that includes the projects that meet the standards set by the recent legislation as appropriate for the state licensing program. However, a definition should be developed for minor projects that could be exempted from the state.”
  - “All projects subject to this licensing process will be small (<5,000 kW). The existing FERC classification system does not need to be followed.”

8/14/2002



# Workshop Responses.

- The first three workshops:
  - February 2, 2004; Anchorage; 18 attended
    - State – 6, Federal – 9, NGO – 1, Industry - 2
  - February 4, 2004; Juneau; 17 attended
    - State – 5, Federal – 8, NGO – 3, Industry - 1
  - February 6, 2004; Fairbanks; 3 attended
    - State - 3

# Workshop Responses.

- Preliminary comments from the workshops:
  - Very 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.
  - Develop a “Notice of Interest” that would include information that agencies could use.
  - RCA staff work with other state agency representatives to plot all 131 viable hydroelectric project sites useable maps.
  - Funding concerns.



# Next Steps.

- Review the Locher Interest LTD., report entitled: “Rural Hydroelectric Assessment and Development Study, Phase 1 Report”.
  - Work with other State Agencies to develop a map locating all 131 viable sites.
  - Use the map to determine if gauging stations are already existing in areas of the viable sites.
- Form committee.
- Work with Dept. of Law to develop the outline of the proposed regulations.

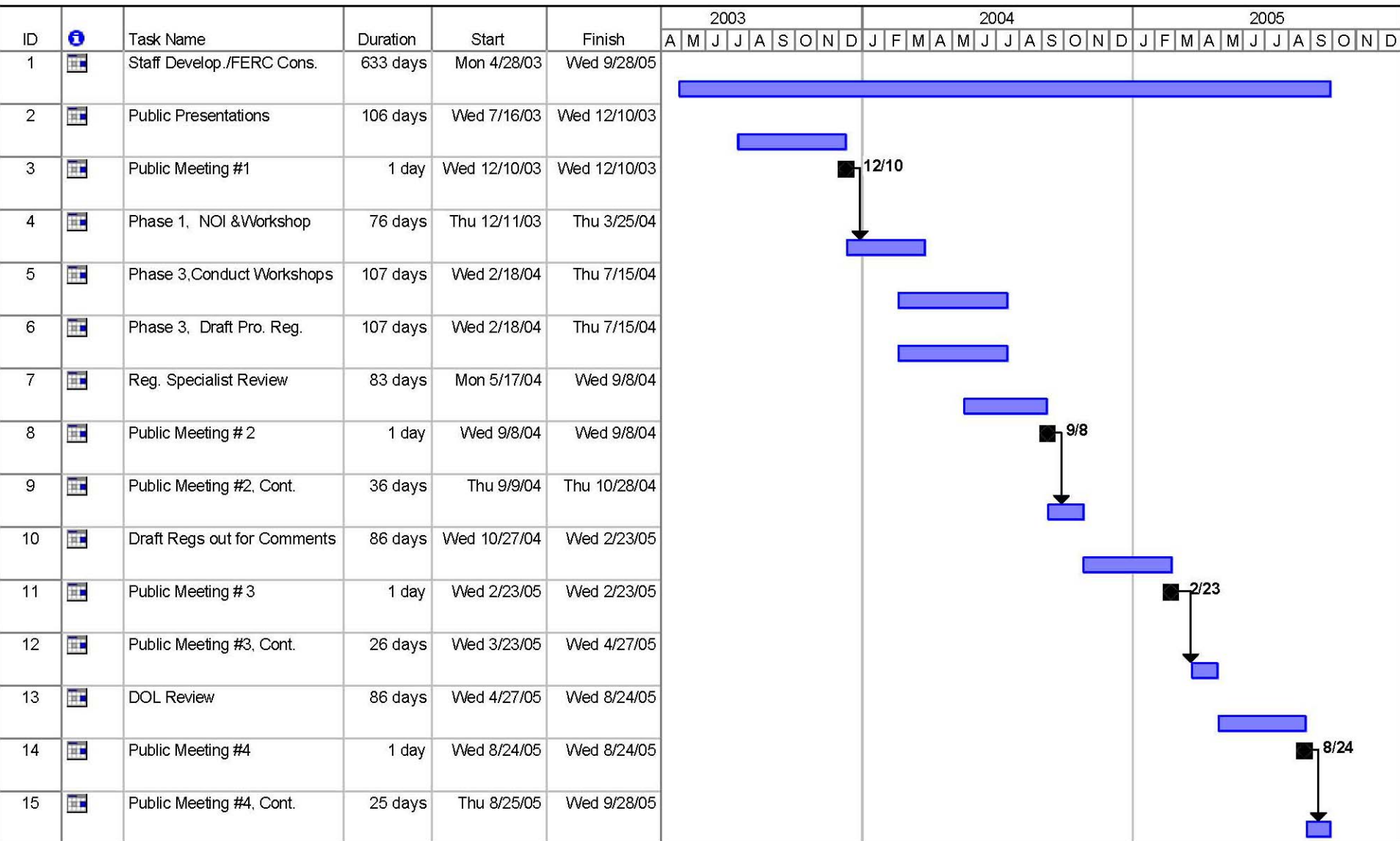
# Next Steps.

- Meet with DNR, WR and ACMP to discuss the recent hydroelectric project that was permitted through the state instead of being licensed by FERC.
  - Use the results of this meeting to develop an agenda item for the committee meeting.
- Start developing the “Notice of Interest” in order to obtain comments from State Resource Agencies.
  - Once comments are received from the state resource agencies, prepare results as an agenda item for a committee meeting.

# Next Steps.

- Contact sectors of the public that the RCA did not receive comments from and did not take part in the workshops.
  - Work towards having representation from the missing sectors on the committee.
- Work with FERC to schedule a presentation on the new licensing process [Integrate Licensing Process (ILP)] and their NEPA process for the committee.
  - This maybe the first use of the State Videoconferencing facilities.

Workshop Method Timeline

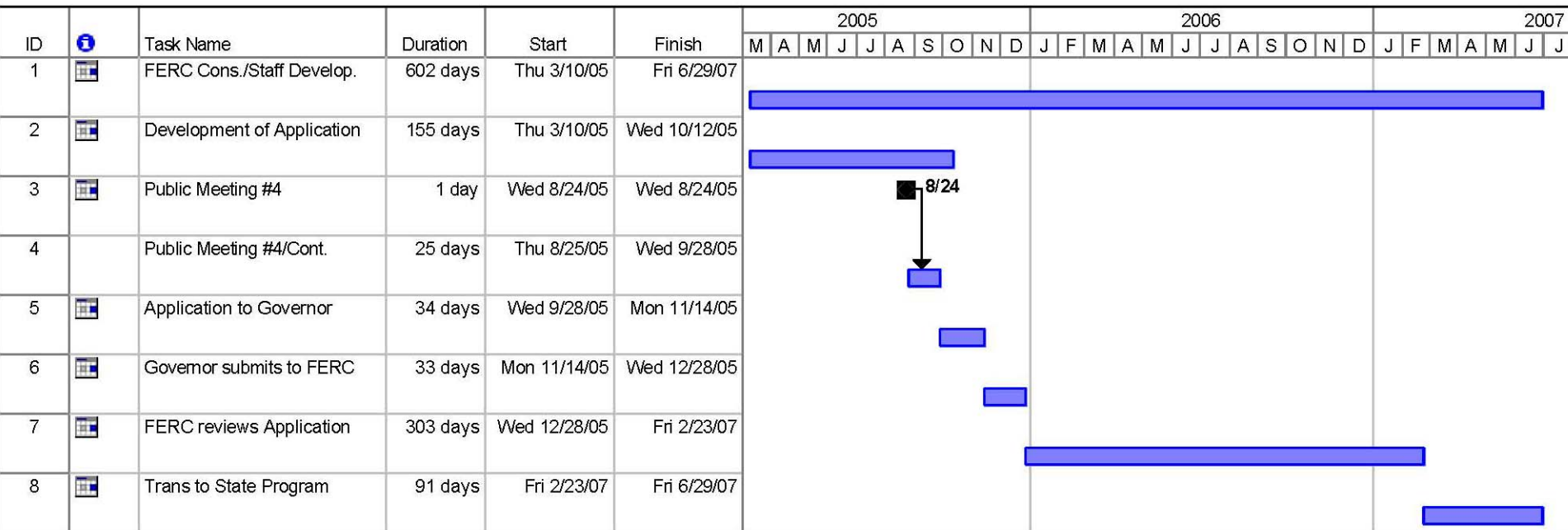


Project: Water-Power Program

Task  Milestone 

Date: 12/12/03

State Application to FERC Timeline, Based on Workshop Method



Project: Water-power Program

Task



Milestone

Date: 12/12/03

# Contact Information

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