

ORIGINAL



DEPARTMENT OF THE ARMY  
NORTHWESTERN DIVISION, CORPS OF ENGINEERS  
P.O. BOX 2870  
PORTLAND, OREGON 97208-2870

Reply to  
Attention of:

OCT 30 2006

Columbia Basin Water Management Division

Ms. Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, D.C. 20426

FEDERAL ENERGY REGULATORY COMMISSION

2006 NOV -6 A 9 45

FILED  
OFFICE OF THE  
SECRETARY

*P-12663, et al.*

Dear Ms. Salas:

We have reviewed the preliminary permit applications for the proposed hydroelectric projects described in Table 1. Each of these projects is located in the State of Washington. Our comments with respect to these applications are summarized below. The U.S. Army Corps of Engineers, Seattle District (CENWS-EC-TB-WM) provided these comments on October 17, 2006. Based on a review of the applications, we have no objection to FERC granting a preliminary permit for each of the proposed projects.

a. The Corps of Engineers has no authorization for flood control on any of the proposed projects.

b. The Corps of Engineers, Seattle District is responsible for regulation of federally authorized navigable waters located within the District's boundaries. Each of the proposed projects is located in navigable waters within the boundaries of Seattle District.

c. The U.S. Army Corps of Engineers must be included in the review process for any environmental impact statement in accordance with the Memorandum of Understanding (MOU) between FERC and the Department of the Army. Mr. Michael Scuderi of the Seattle District, Environmental Resources Section should be contacted for involvement in each project's environmental review process. His phone number is (206) 764-3479.

d. A Department of the Army (DA) permit, under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, may be required for one or more of the proposed projects. A Section 10 permit is required for structures in navigable waters of the United States, while a Section 404 permit is required for the excavation or placement of fill in waters of the United States, including wetlands. Section 404 of the Clean Water Act requires that a project be evaluated under the 404(b)(1) Guidelines. These guidelines require that the final selected site and site layout is the least environmentally damaging practicable alternative. The entire project will be evaluated at one time by the Seattle District, Regulatory Branch. Particular portions of the project which might involve excavation or placement of fill in waters of the United States include the transmission lines or any other impacts to waters of the United States, including wetlands, caused by construction activities. A wetlands determination will be needed

-2-

to identify any wetlands and/or stream crossing within the right-of-way for transmission lines, etc. In addition, under the Endangered Species Act the lead Federal agency must evaluate the potential impacts of the proposed project to listed and proposed threatened and endangered species and their critical habitat before a permit decision can be reached. Therefore, a biological assessment must be written to determine the effects of the proposed project on Federally listed and proposed for listing species and their critical habitat within the project area.

e. The applicants should be advised that the Seattle District, Regulatory Branch must become an active participant in the 3-stage consultation process and make a determination on the DA permitting for the proposed projects. Accordingly, this office should be included in each applicant's Service List. The complete address of the Regulatory Branch is listed below.

Seattle District, Corps of Engineers  
Regulatory Branch  
P.O. Box 3755  
Seattle, WA 98124-3755

f. Questions pertaining to the Corps' regulatory program should be directed to Ms. Olivia Romano, Regulatory Branch, at the address listed above or by telephone at (206) 764-6960.

Sincerely,



Karen L. Durham-Aguilera, P.E.  
Director, Programs

Enclosure

**TABLE 1****FERC Preliminary Permit Applications Reviewed**

<b><u>Project Name</u></b>	<b><u>FERC Number</u></b>	<b><u>State</u></b>	<b><u>Waterway</u></b>
Deception Pass Tidal Energy	12663	Washington	Puget Sound
Greenmill	12671	Washington	Whatcom Creek
Deception Pass Tidal Energy	12687	Washington	Puget Sound
Rich Passage Tidal Energy	12688	Washington	Puget Sound
Spieden Channel Tidal Energy	12689	Washington	Puget Sound
Admiralty Inlet Tidal Energy	12690	Washington	Puget Sound
Agate Passage Tidal Energy	12691	Washington	Puget Sound
San Juan Channel Tidal Energy	12692	Washington	Puget Sound
Guemes Channel Tidal Energy	12698	Washington	Puget Sound