



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
PORTLAND OFFICE  
1201 NE Lloyd Boulevard, Suite 1100  
PORTLAND, OREGON 97232-1274

F/NWR5

VIA ELECTRONIC FILING

September 14, 2006

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

Re: Motion for Late Intervention, FERC Nos. 12688, 12689, 12690, 12691, 12692,  
and 12698.

Dear Secretary Salas:

For reasons discussed herein, the National Marine Fisheries Service is submitting the attached Motion for Late Intervention. The dockets referenced above are assigned to Snohomish County Public Utility District No. 1, who has applied for preliminary permits to investigate possible placement and operation of tidal instream energy devices at various locations in the Puget Sound, Washington area. These projects have the potential

200609145066 Received FERC OSEC 09/14/2006 04:17:00 PM Docket # P-12688-000 ET AL.

Sincerely,

Keith Kirkendall, Chief  
FERC & Water Diversions Branch  
Hydropower Division

Enclosure

cc: Service list



**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

Snohomish County Public Utility	)	
District No. 1	)	
	)	No. P-12688 – Rich Pass Project
	)	No. P-12689 – Spieden Channel
	)	No. P-12690 – Admiralty Inlet
	)	No. P-12691 – Agate Passage
Applications for Preliminary Permits	)	No. P-12692 – San Juan Channel
	)	No. P-12698 – Guemes Channel
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**NATIONAL MARINE FISHERIES SERVICE'S  
NOTICE OF LATE INTERVENTION**

The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, United States Department of Commerce, hereby moves pursuant to 18 C.F.R. §385.214(d) (Rule 214), to intervene in these proceedings. NMFS has a Federal statutory responsibility for protection, mitigation, and enhancement of marine and anadromous fish resources and marine mammals that may be directly affected by the results of these proceedings. NMFS seeks to intervene for the purposes of becoming a party, and to ensure that its interests and those of the Department of Commerce and the public are represented in this proceeding.

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Service of process and other communications concerning these proceedings should be made to:

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## NMFS' INTERESTS

NMFS is the Federal agency with jurisdiction over marine, estuarine, and anadromous fish resources and marine mammals. See Reorganization Plan No. 4 of 1970, 84 Stat. 2090, as amended; the Fish and Wildlife Coordination Act (FWCA) at 16 U.S.C. § 661 and 662; the Sustainable Fisheries Act, 16 U.S.C. § 1801 et seq.; the Federal Power Act (FPA) at 16 U.S.C. § 803 and 811; the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839 et seq.; the Pacific Salmon Treaty Act of 1985, 16 U.S.C. § 3631-3644; the Marine Mammal Protection Act 16 U.S.C. §1361 et seq., as amended; and finally, the Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.

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Pursuant to the above-cited authorities, NMFS has a statutory responsibility for protection and enhancement of marine mammals and marine and anadromous fish resources that may be affected by the outcome of this proceeding. The FPA and FWCA specifically authorize NMFS to participate in this proceeding. By carrying out its statutory responsibilities under the FPA, FWCA, ESA and other authorities cited above, NMFS acts in the public interest. In addition, NMFS is obligated to satisfy its tribal trust responsibilities in the exercise of its statutory authorities affecting tribal interests and tribal treaty obligations.

In addition, NMFS had good cause for not intervening in a timely manner. We did not receive any formal notice of the existence of such subdockets until the date for timely intervention had passed. While we presume notice was publicly available, NMFS staff is severely shorthanded due to the numerous other FERC projects in which we are currently involved and is unable to catch every public notice in time. We also believe, given the early stage of development, that our intervention would not in any way prejudice an existing party or otherwise disrupt the proceedings. We also believe NMFS' statutory roles in the protection of anadromous fish and marine mammals, as well as our duty to administer the Endangered Species Act, means that no other party can adequately represent the same interests. In fact, given the near certainty that each of these projects would require consultation under the ESA well in advance of the placement of any projects in the water, NMFS participation at the earliest possible stage is indispensable.

For the above-stated reasons, NMFS respectfully requests that its motion for late intervention be granted in these proceedings.

200609145066 Received and entered by the Clerk on 09/14/2006 04:37:50 PM Docket# P-12688-000, ET AL.

DATED this 14 day of September, 2006, on behalf of the National Marine Fisheries Service.

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

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_____	)	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, by electronic mail, a letter to Magalie R. Salas, Federal Energy Regulatory Commission from the National Marine Fisheries Service regarding Motion for Late Intervention, FERC Nos. 12688, 12689, 12690, 12691, 12692, and 12698 and this Certificate of Service has been served to each person designated on the official

service list compiled by the Commission in the above captioned proceeding.

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Dated on September 14, 2006.

  
Bethany Downs

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