



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
500 NE Multnomah Street, Suite 356
Portland, Oregon 97232-2036



9043.1
IN REPLY REFER TO:
ER06/0630

Electronically Filed

July 17, 2006

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

Subject: COMMENTS – Notice of Application for Competing Preliminary Permit for the Deception Pass Tidal Energy Hydroelectric Project, FERC Project No. 12687-000; Skagit and Island Counties, Washington

Dear Ms. Salas:

The Department of the Interior (Department) has reviewed the subject Notice of Application for Competing Preliminary Permit for the for the proposed Deception Pass Tidal Energy Hydroelectric Project, Project No. 12687-000, located in Skagit and Island Counties, Washington. The Department offers the following comments and recommendations to the Federal Energy Regulatory Commission (Commission) on the application.

The proposed Deception Pass Tidal Energy Project would generate electrical power using the kinetic energy of the flow of water through Deception Pass. During Phase I of evaluation under the term of the requested preliminary permit, the applicant would investigate existing tidal power technology and installations, as well as new tidal generating units currently in development, to determine which would be best suited to the conditions in Deception Pass, taking into account impacts on the environment and the recreation in and around Deception Pass. The geology, substrate conditions, navigational requirements, and flow variances through Deception Pass would also be studied during the first phase to determine the optimum placement for tidal generating units.

Following the completion of Phase I, the feasibility of proceeding with a permanent installation of a tidal energy generating array would be tested by the placement of up to four demonstration units. During the test period, the operation of the selected units, the optimal placement within Deception Pass, the effects on marine traffic, and the potential effects on marine aquatic species

and their habitat would be evaluated. Only after the successful completion of the testing period would the applicant determine whether or not to proceed with a project.

Fish and wildlife resources of interest that may be affected by the project include, but are not limited to seabirds including, marbled murrelets (*Brachyramphus marmoratus*) and pigeon guillemots (*Cepphus columba*); raptors including peregrine falcon (*Falco peregrine*) and bald eagle (*Haliaeetus leucocephalus*); and fish including bull trout (*Salvelinus confluentus*), coastal cutthroat trout (*Onocorhynchus clarki clarki*), forage fish, and salmon species. The project is located within bull trout foraging, migration, and overwintering habitat and designated Critical Habitat.

The Department supports the proposed study concepts listed in the application. We request that the PUD consult throughout the term of the preliminary permit with the Department through the U.S. Fish and Wildlife Service's Western Washington Fish and Wildlife Office to determine the details of these studies and any additional appropriate studies. The Department also recommends that the Commission issue the preliminary permit to authorize the requested demonstration project only, and to not include more than four pilot Tidal In-Stream Energy Conversion devices. At the end of the term of the preliminary permit, all such devices and related infrastructure should be shut down and/or removed from the waterway pending initiation and completion of the Commission's licensing process. If the Permittee elects to not proceed with a project, then the Permittee should be required to remove the project and related infrastructure from the waterway, restore the project area, and repair all environmental damage caused by the demonstration project.

The Department appreciates the opportunity to comment during the planning stages of the Deception Pass Tidal Energy Hydroelectric Project. Please include the U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office, 510 Desmond Dr. SE, Suite 102, Lacey, Washington 98503 on the Commission's and the PUD's mailing list for all matters related to this project. If you have any questions regarding this response, please contact Mr. Brian Peck by telephone at (360) 753-9560, by fax at (360) 753-9407, or by email at brian_peck@fws.gov.

The Department appreciates the opportunity to comment.

Sincerely,



Preston A. Sleeper
Regional Environmental Officer

cc:

OEPC, Washington, DC (Rai)
FWS, Washington, DC (Damiani-Stavrakas)
FWS, Portland, OR (Mead)
FWS, Lacey, WA (Berg)

Enclosure A

ROCKY POINT HYDROELECTRIC PROJECT, FERC PROJECT NO. 12625
BEAR LAKE COUNTY, IDAHO
SPECIES LIST
#TA 06-0058

<u>LISTED SPECIES</u>	<u>COMMENTS</u>
Gray wolf (<i>Canis lupus</i>)	XN - Experimental/Non-essential population
Canada lynx (<i>Lynx canadensis</i>)	LT
Bald eagle (<i>Haliaeetus leucocephalus</i>)	LT
<u>PROPOSED SPECIES</u>	
None	
<u>CANDIDATE SPECIES</u>	
None	

Enclosure B

FEDERAL AGENCIES' RESPONSIBILITIES UNDER
SECTIONS 7(a) and (c) OF THE ENDANGERED SPECIES ACTSECTION 7(a) Consultation/Conference

Requires: (1) Federal agencies to utilize their authorities to carry out programs to conserve endangered and threatened species; (2) Consultation with Fish and Wildlife Service (Service) when a Federal action may affect a listed, endangered, or threatened species to insure that any action authorized, funded, or carried out by a Federal agency is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. The process is initiated by the Federal agency after determining the action may affect a listed species; and (3) Conference with the Service when a Federal action is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat.

SECTION 7(c) Biological Assessment-Major Construction Activity¹

Section 7(c) requires Federal agencies or their designees to prepare a Biological Assessment (BA) for major construction activities. The BA analyzes the effects of the action² on listed and proposed species. The process begins with a Federal agency requesting from the Service a list of proposed and listed threatened and endangered species. The BA should be completed within 180 days after its initiation (or within such a time period as is mutually agreeable). If the BA is not initiated within 90 days of receipt of the list, the accuracy of the species list should be informally verified with our Service. No irreversible commitment of resources is to be made during the BA process which would foreclose reasonable and prudent alternatives to protect endangered species. Planning, design, and administrative actions may proceed; however, no construction may begin.

We recommend the following for inclusion in the BA: an on-site inspection of the area affected by the proposal which may include a detailed survey of the area to determine if the species or suitable habitat is present; a review of literature and scientific data to determine species distribution, habitat needs, and other biological requirements; interviews with experts, including those within the Service, State conservation departments, universities and others who may have data not yet published in scientific literature; an analysis of the effects of the proposal on the species in terms of individuals and populations, including consideration of indirect effects of the proposal on the species and its habitat; an analysis of alternative actions considered. The BA should document the results, including a discussion of study methods used, and problems encountered, and other relevant information. The BA should conclude whether or not a listed or proposed species will be affected. Upon completion, the BA should be forwarded to our office.

¹ A construction project (or other undertaking having similar physical impacts) which is a major Federal action significantly affecting the quality of the human environment as referred to in NEPA (42 U.S.C. 4332(2)C).

² "Effects of the action" refers to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Public Utility District No. 1 of)	
Snohomish County, Washington)	Project No. 12687-000
)	
Application for Competing Preliminary Permit)	
for the Deception Pass Tidal Energy)	
Hydroelectric Project)	

Certificate of Service

I hereby certify that I have caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding

Dated this 17th day of July, 2006



Preston Sleeper
Regional Environmental Officer
U.S. Department of the Interior
500 NE Multnomah St., Suite 356
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Submission Contents

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