

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

**DECEPTION PASS TIDAL ENERGY  
PROJECT**

PROJECT NO.P-12687-000

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES'  
MOTION TO INTERVENE**

Pursuant to 18 C.F.R. §§ 385.212, .214 of the Federal Energy Regulatory Commission's (FERC or Commission), the State of Washington Department of Natural Resources (DNR), hereby moves to intervene in the above-captioned proceeding. The grounds for this motion are:

**I.**

The names and addresses of the legal counsel for DNR and the DNR's main staff contact are below. Copies of all orders, notices, pleadings and correspondence related to this proceeding should be directed to:

Roger A. Braden, Assistant Attorney General  
Office of the Attorney General  
Natural Resources Division  
1125 Washington Street S.E.  
PO Box 40100  
Olympia, WA 98504-0100

and:

**PUBLIC UTILITY DISTRICT NO. 1 OF  
SNOHOMISH COUNTY, WASHINGTON**

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**ATTORNEY GENERAL OF WASHINGTON**  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 753-6200

Steve Jennison, District Manager for Aquatic Lands  
Orca Straits District  
Department of Natural Resources  
Northwest Region  
919 North Township Street  
Sedro Wooley, WA 98284

## II.

DNR is an agency of the state of Washington created to manage the public trust lands and aquatic lands, including tidelands, shorelands, lakes and rivers, and beds of navigable salt and fresh waters. Pursuant to statutory authority granted under state law, DNR possesses the right and the duty to manage said public lands for the benefit of the common schools, colleges, counties, and other institutions of the state of Washington. Furthermore, DNR has a responsibility to ensure adherence with several recent agreements that establish specific requirements for protection of threatened and endangered species under the federal Endangered Species Act, and compliance with provisions of the federal Clean Water Act. These agreements include the Habitat Conservation Plan (HCP), approved by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in 1997, and the Forests and Fish Agreement passed by the Washington State Legislature and signed by Governor Gary Locke in 1999. Pursuant to DNR's constitutional, statutory, and contractual duties, DNR brings this motion to intervene on behalf of the specific trust beneficiaries for whom DNR manages state-owned lands and the citizens of the state of Washington.

### III.

Snohomish County Public Utility District No. 1 filed a notice of application pursuant to the Federal Power Act, 16 V.S.C. sections 791(a)-825(r) for a project known as the Deception Pass Tidal Energy Project. Snohomish County Public Utility District No. 1 filed in Docket No. P-12687-000, an application for a Preliminary Permit for a proposed tidal energy project that would consist of: (1) four Tidal In Stream Energy Conversion (TISEC) devices consisting of, (2) rotating propeller blades 20 meters in diameter, (3) integrated generators, (4) anchoring systems, (5) mooring lines, and (6) interconnection transmission lines. The proposed project is estimated to have a minimum annual generation of 20.7 gigawatt-hours per-year, which would be distributed by the Snohomish County Public Utility District.

### IV.

The project is proposed to be located in Deception Pass, between Whidbey Island and Fidalgo Island, in the Puget Sound in Skagit and Island Counties of Washington State. The project would not occupy Federal or Tribal lands. The project would occupy Washington State aquatic land over which DNR has jurisdictional management responsibilities under Washington statutes.

### V.

The proposed project may adversely affect state trust lands, aquatic lands, lands included in the HCP, and the state's natural resources, under the jurisdiction of DNR. For the above reasons, DNR has a significant interest, which may be directly affected by the outcome of this proceeding, and existing parties do not

adequately represent this interest. DNR's participation in this proceeding is in the public interest.

VI.

THEREFORE, in order that the Commission has before it all of the material facts relating to this project, DNR requests that it be allowed to intervene as a party to this proceeding. As a party in the above-entitled proceedings, DNR requests the right to have notice of and appear at any and all hearings or proceedings, to produce evidence and cross examine witnesses, to be heard through counsel in written and oral argument, to be served with copies of all pleadings, applications, and notices, and for any other such participation and relief as may be appropriate.

DATED this 17<sup>th</sup> day of July, 2006.

Respectfully submitted:

ROB MCKENNA  
Attorney General



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ROGER A. BRADEN, WSBA# 11756  
Assistant Attorney General  
Office of the Attorney General  
Natural Resources Division  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 586-3551



**PROOF OF SERVICE**

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

- US Mail Postage Prepaid via Consolidated Mail Service
- ABC/Legal Messenger
- State Campus Delivery
- Hand delivered by \_\_\_\_\_
- E-Filing

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 17<sup>th</sup> day of July, 2006, at Olympia, WA.

  
 \_\_\_\_\_  
 MARILYN WHITFELDT  
 Legal Assistant

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