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UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

RICH PASSAGE TIDAL ENERGY PROJECT

PROJECT NO. 12688-000

KITSAP COUNTY'S MOTION TO  
INTERVENE

**I. INTRODUCTION**

Pursuant to Rules 210 and 214 of the Federal Energy Regulatory Commission ("Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.210 and .214, Kitsap County ("the County") hereby moves for late intervention in the above-captioned proceeding. The County is filing this motion for intervention in response to the June 22, 2006, Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests and Comments in FERC Project No. 12688-000. In support of the motion, the County respectfully states as follows:

**II. COMMUNICATIONS**

All correspondence, communications, pleadings and other documents related to this proceeding should be addressed to:

Shelley Kneip/Lisa Nickel, Civil Division  
Kitsap County Prosecuting Attorney's Office  
614 Division Street, MS 35A  
Port Orchard, WA 98366  
Telephone: (360) 337-4992  
Facsimile: (360) 337-7083  
E-mails: [SKneip@co.kitsap.wa.us](mailto:SKneip@co.kitsap.wa.us); [Lnickel@co.kitsap.wa.us](mailto:Lnickel@co.kitsap.wa.us)

KITSAP COUNTY'S MOTION TO INTERVENE - 1

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**With Copies to:**

P. Stephen DiJulio  
Joseph A. Brogan  
FOSTER PEPPER PLLC  
1111 Third Avenue, Suite 3400  
Seattle, Washington 98101  
Telephone: (206) 447-4400  
Facsimile: (206) 749-1935  
E-mails: [DIJUP@Foster.com](mailto:DIJUP@Foster.com); [BROGJ@Foster.com](mailto:BROGJ@Foster.com)

The County requests that each of the individuals identified above be placed on the Commission's official service list in this proceeding and hereby consents to receiving such service electronically.

**III. BACKGROUND OF THIS PROCEEDING**

Public Utility District No. 1 of Snohomish County, Washington ("Snohomish PUD") filed a notice of application pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a) -825(r), for a project known as Rich Passage Tidal Energy Project ("Project"). Snohomish PUD filed an application for a preliminary permit for a proposed tidal energy project that would consist of: (1) 62 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades ten to twenty meters in diameter; (2) integrated generators with a capacity of 22 to 68 kW; (3) anchoring systems; (4) mooring lines; and (5) interconnection transmission lines. The proposed project is estimated to have an annual generation of 8.56 gigawatt-hours per year. The project is proposed to be located in Rich Passage in Kitsap County, entirely within Kitsap County's jurisdiction.

**IV. INTERESTS OF THE INTERVENOR JUSTIFYING INTERVENTION**

The County is a Washington municipal corporation formed under the laws of the State of Washington. The County's jurisdiction extends into and entirely over the waters of Rich Passage. RCW 36.04.180.



1 will not suffer prejudice or additional burdens by the granting of the intervention. 18 CFR §  
2 385.214.

3 As a municipality, 16 U.S.C. § 825g permits the Commission to admit Kitsap County as  
4 a party in this proceeding.

5 The County is directly affected by the outcome of this proceeding. Snohomish County  
6 PUD seeks to explore the siting and development of a tidal energy project in Kitsap County.  
7 The County is a key stakeholder and regulator of land use, zoning, fish and wildlife, recreation  
8 and shoreline activities in the Project area. Snohomish County PUD seeks “proprietary rights to  
9 construct, operate, and maintain” a tidal energy project within the waters of Rich Passage in  
10 Kitsap County. Kitsap County Government and its citizens will be directly impacted by these  
11 actions.

12 The testing and siting of tidal energy devices impacts fish and wildlife resources within  
13 the County and impacts shorelines under the jurisdiction of the County. The siting of this  
14 project within the County will also limit public access and public recreation opportunities within  
15 the Project area.

16 The County has shoreline, land use, and zoning jurisdiction over the Project.  
17 Intervention in this proceeding would permit the County to clarify the relationship of the  
18 various county land use, shoreline, and zoning regulations that apply to the Project.

19 The Project should serve the public interest by providing regional economic benefits to  
20 all jurisdictions directly impacted by its operation. Intervention in this proceeding would permit  
21 the County to communicate to the Commission and the Applicant how that goal may be  
22 accomplished.

23 After becoming more familiar with the technology and scope of the Applicant’s  
24 proposal, the County has determined that it has good cause to seek formal intervention in this  
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KITSAP COUNTY’S MOTION TO INTERVENE - 4

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1 proceeding in order to protect the resources of the County and the interests of the County's  
2 citizens.<sup>1</sup>

3 The County's Motion is also timely because the Commission's rules provide that any  
4 person that files a motion to intervene on the basis of a Draft Environmental Impact Statement  
5 ("DEIS") will be deemed to have filed a timely motion in accordance with §385.214, as long as  
6 the motion is filed within the comment period for DEIS. 18 CFR § 380.10(a)(1). Because a  
7 DEIS for this proposal has not yet been issued, the County's Motion should be considered  
8 timely as the Commission's own rule would permit the County's intervention as late as the filing  
9 of the DEIS.

10 No disruption of these proceedings will occur as the County is not seeking to change the  
11 schedule set forth in the Commission's Notice of Application. Similarly, no prejudice to the  
12 existing parties will occur from permitting this intervention.

13 The interests of the citizens of Kitsap County are not adequately represented by any  
14 party to this proceeding. The County is in a unique position to communicate the interests and  
15 concerns of its citizens to the Commission. Therefore, the Commission should grant the County  
16 intervention as a key stakeholder in this proceeding.

17 Therefore, good cause having been shown, the County respectfully requests pursuant to  
18 Commission rules that it be permitted to intervene in the above-entitled proceedings and be  
19 made a party thereto. It requests the right to have notice of and appear at any and all hearings or  
20 proceedings, to produce evidence and cross-examine witnesses, to be heard through counsel  
21 through written and oral argument, to be served henceforth with copies of all pleadings,  
22 applications and notices, and for such other participation and relief as may be appropriate under  
23 Commission rules.

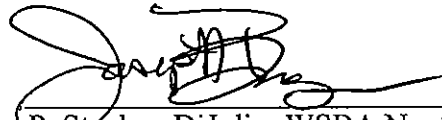
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26 <sup>1</sup> The Commission has liberally granted intervention to Washington counties seeking to intervene out-of-time in  
FERC proceedings where the applicant's project is located in the county that is seeking intervention. See  
PacifiCorp Project No. 2342-012, Order Granting Intervention of Klickitat and Skamania Counties.

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RESPECTFULLY SUBMITTED this 20th day of October 2006.

KITSAP COUNTY PROSECUTING  
ATTORNEY'S OFFICE  
Shelley Kneip/Lisa Nickel, Civil Division  
WSBA Nos. 22711 & 31221

FOSTER PEPPER PLLC



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P. Stephen DiJulio, WSBA No. 7139  
Joseph A. Brogan, WSBA No. 30664  
Attorneys for Kitsap County

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, via e-mail or via U.S. Postal Service, the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 20<sup>th</sup> day of October, 2006.



Helen M. Stubbert, Legal Assistant to  
Joseph A. Brogan, Counsel for  
Kitsap County

Submission Contents

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