

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

Narrows Tidal Energy Project

NO. P-12612-000

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

Pursuant to 18 C.F.R. §§ 385.210, 385.214 of the Federal Energy Regulatory Commission's (FERC or Commission) rules, State of Washington Department of Natural Resources (DNR) hereby moves to intervene in the above-captioned proceeding.

The motion is based on the following grounds:

**I.**

The names and addresses of the legal counsel for the 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:

STEVEN W. RENAUD, WSBA No. 20271  
Assistant Attorney General  
Office of the Attorney General  
Natural Resources Division  
1125 Washington Street S.E.  
P.O. Box 40100  
Olympia, WA 98504-0100

and:

WA Department of Natural Resources  
South Puget Sound Regional Office  
Attn: Rex Thompson  
Aquatic Resources Regional Manager  
950 Farman Avenue North  
Enumclaw, WA 9822-9282

## II.

DNR is an agency of the State of Washington created to manage “public lands,” including “aquatic lands” such as tidelands, shorelands, lakes and rivers, and beds of navigable salt and fresh waters. *See* RCW 43.30.010, RCW 79.02.010(9), and RCW 79.105.010. DNR manages aquatic lands for the benefit of the public. RCW 79.105.010. Pursuant to state statutory authority, DNR possesses the right and the duty to manage public uplands, except aquatic 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 the Department of Natural Resources’ constitutional, statutory, and contractual duties, DNR brings this motion to intervene on behalf of specific trust beneficiaries, for whom DNR manages much of Washington’s state-owned lands, and the citizens of the State of Washington.

## III.

As part of the Commission’s review of the Tacoma Narrows project, the Commission shall consider “the recommendations of Federal and State agencies exercising administration over . . . recreation, cultural and other relevant resources of the State in which the project is located.” 16 U.S.C.A. § 803(a)(2)(B). Other relevant resources are identified in 16 U.S.C.A. § 797(e), which states, in part, that the Commission, in addition to the power and development purposes for which licenses are issued, shall give “equal consideration to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat), the protection of recreational opportunities, and the preservation of

other aspects of environmental quality.” Under these principles, the Commission should consider the recommendations of state agencies that manage affected lands before making a licensing decision.

#### IV.

Tacoma Power filed a Notice of Application pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a) - 825(r), for a project known as the Narrows Tidal Energy Project. In Docket No. P-12612-000, Tacoma Power filed an application for a Preliminary Permit for a proposed tidal energy project that would consist of: (1) units resembling windmills with slow-moving blades, using tidal flow on a vertical shaft with blades, with hourglass-shaped generators that use pressure differential to move turbines, having installed capacity ranging from 90 to 750 kilowatts, and placed deep enough in the Tacoma Narrows to allow unencumbered marine traffic; (2) a proposed 115 kilovolt transmission line; and (3) appurtenant facilities. The proposed project would be connected to Tacoma Power’s existing transmissions system.

#### V.

The project is proposed to be located in the southern portion of Puget Sound, an inland marine waterway of the northern Pacific Ocean, Pierce County, Washington State. The project would not occupy Federal or Tribal lands.

#### VI.

The project is proposed for the Tacoma Narrows, which includes aquatic lands of the State of Washington. DNR manages the aquatic lands that will be affected by this project. Depending on the project’s scope and exact location, the project may adversely affect aquatic lands, DNR-managed lands addressed by the state’s HCP, lands addressed by the Forests and Fish Agreement, or the State’s natural resources. DNR has a significant interest in the lands and resources that may be adversely affected. This interest may be directly affected by the outcome of this proceeding. Existing parties do not adequately represent the State of Washington’s ownership

interests or DNR's land management interests. Thus, DNR should be permitted to intervene in this proceeding to represent its interests.

**VII.**

DNR manages aquatic lands for the benefit of the public. DNR's participation in this proceeding is in the public interest.

**VIII.**

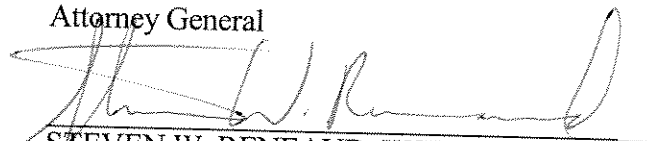
THEREFORE, in order that this proceeding be fully developed in accordance with applicable law, and that the Commission have before it all of the material facts relating to this project, the Commission should grant DNR intervenor status.

As a party in the above-entitled proceeding, 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 21 day of December, 2005.

Respectfully submitted,

ROB MCKENNA  
Attorney General



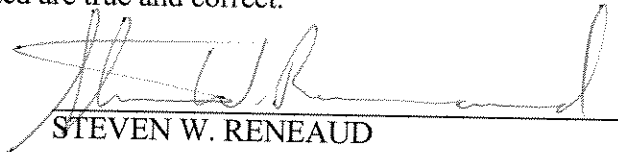
STEVEN W. RENEAUD, WSBA #20271  
Assistant Attorney General  
Natural Resources Division  
(360) 664-3451

**VERIFICATION**

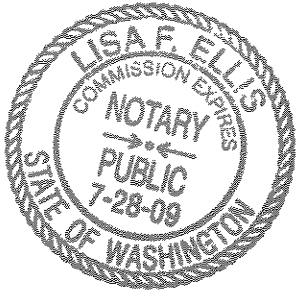
STATE OF WASHINGTON )  
  )  
COUNTY OF THURSTON )      ss.


I, STEVEN W. RENEAUD, being first duly sworn on oath, depose and say:

That I am an Assistant Attorney General assigned to represent the Washington State Department of Natural Resources; that I make this verification for and on behalf of the Department of Natural Resources, being duly authorized to do so; that I have read the foregoing Motion to Intervene and believe the facts therein stated are true and correct.

  
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STEVEN W. RENEAUD

SUBSCRIBED AND SWORN TO before me this 21<sup>st</sup> day of December, 2005.



  
\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington.  
My Commission Expires: 7/28/09

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, by depositing in the United States mail, the foregoing document on all parties of record to these proceedings in accordance with the Rules of Practice and Procedure.

DATED this 27<sup>th</sup> day of December, 2005.

Elizabeth A. Ellis  
Print Name: Elizabeth A. Ellis

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