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December 20, 2011

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

**Re: Sunset Falls Hydroelectric Project Preliminary Permit, Project No. 14295
Motion to Intervene**

Dear Secretary Bose:

Enclosed for filing in the above referenced proceeding is Alpine Lakes Protection Society, American Rivers, American Whitewater, North Cascades Conservation Council, Sierra Club – Washington State Chapter, The Mountaineers, and Washington Wild's MOTION TO INTERVENE IN OPPOSITION to the Commission's October 21, 2011 Notice of Acceptance for the Sunset Falls Preliminary Permit Application.

Copies of this filing have been served on all parties of record to this proceeding. Thank you for your assistance. Please call me at (425) 417-9012 if you have any questions or need additional information.

Sincerely,



Thomas O'Keefe
Pacific Northwest Stewardship Director
American Whitewater
3537 NE 87th St.
Seattle, WA 98115
okeefe@americanwhitewater.org
(425) 417-9012

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

Public Utility District No 1	)	Project No. 14295-000
of Snohomish County	)	Sunset Falls
	)	Hydroelectric Project
)	
	)	Motion to Intervene of Alpine
	)	Lakes Protection Society, American
	)	Rivers, American Whitewater, North
	)	Cascades Conservation Council,
	)	Sierra Club – Washington State
	)	Chapter, The Mountaineers, and
<u>Preliminary Permit Application</u>	)	Washington Wild

ALPINE LAKES PROTECTION SOCIETY, AMERICAN RIVERS, AMERICAN
WHITEWATER, NORTH CASCADES CONSERVATION COUNCIL, SIERRA CLUB
– WASHINGTON STATE CHAPTER, THE MOUNTAINAEERS, AND WASHINGTON
WILD MOTION TO INTERVENE AND COMMENTS ON PRELIMINARY PERMIT
APPLICATION FOR THE SUNSET FALLS HYDROELECTRIC PROJECT
FERC PROJECT NUMBER 14295-000

(Submitted December 20, 2011)

I. Introduction

By notice dated October 21, 2011 the Federal Energy Regulatory Commission (Commission) issued its “NOTICE OF PRELIMINARY PERMIT APPLICATION ACCEPTED FOR FILING AND SOLICITING COMMENTS, MOTIONS TO INTERVENE, AND COMPETING APPLICATIONS,” for Public Utility District No. 1 of Snohomish County’s Sunset Falls Hydroelectric Project, FERC No. P-14295-000.¹ The Notice provided 60 days for the submission of filings. Pursuant to 18 C.F.R. § 385.214, Alpine Lakes Protection Society, American Rivers, American Whitewater, North Cascades Conservation Council, Sierra Club – Washington State Chapter, The Mountaineers, and Washington Wild (collectively, the Conservation Groups) hereby move to intervene in this proceeding. Service of process and other communications should be made to:

Rick McGuire
Alpine Lakes Protection Society,
11025 24th Ave. NE
Seattle, WA 98125
rckmcguire@gmail.com

¹ (Accession No. 20111021-3032)

(206) 363-6954

Brett Swift
American Rivers
320 SW Stark Street, Suite 412
Portland, OR 97204
bswift@amrivers.org
(503) 827-8648

Thomas O'Keefe
Pacific Northwest Stewardship Director
American Whitewater
3537 NE 87th St.
Seattle, WA 98115
okeefe@americanwhitewater.org
425-417-9012

Richard J. Bowers
Northwest Coordinator
Hydropower Reform Coalition
830 Reville St.
Bellingham, WA 98229
Rich@hydroreform.org
(360) 303-9625

Marc Bardsley, President
North Cascades Conservation Council
P.O. Box 95980
Seattle, WA 98145-2980
marcb@seanet.com
(360) 668-2997

Mark Lawler, National Forests Committee Chair
Sierra Club – Washington State Chapter
180 Nickerson Street, Suite 202
Seattle, WA 98109
(206) 632-1550
mark.lawler@sierraclub.org

Sarah Krueger
Public Lands Programs Manager
The Mountaineers
7700 Sand Point Way NE
Seattle, WA 98115
sarah@mountaineers.org
(206) 521-6000

Tom Uniack
Conservation Director
Washington Wild
305 N. 83rd St.
Seattle WA 98103
tom@wawild.org
(206) 633-1992

II. Motion to Intervene

A. Interest of the Intervenors

The Conservation Groups represent local, regional, and national environmental and recreational nonprofit organizations with an interest in protecting and restoring rivers and streams and other natural resources located in the Pacific Northwest. Each organization has a direct interest in changes to flows, public and river access, flow information, habitat, land management, watershed protection and other topics that will arise in the consideration of a hydropower project at Sunset Falls. Based on the interests stated above, the Conservation Groups hereby request Intervenor status and offer comments on the Preliminary Permit Application in this filing.

Alpine Lakes Protection Society (ALPS) works to protect lands, waters and forests, and to encourage environmentally sustainable recreational development in the Alpine Lakes region, a dramatic area of peaks, forests and over 600 lakes in the central Cascade mountains directly east of Puget Sound.

American Rivers is a national, non-profit, 501(c)(3) conservation organization with northwest regional offices in Seattle, Washington and Portland, Oregon. American Rivers serves more than 35,000 members nationwide and 2,250 members in the region. American Rivers is dedicated to protecting and restoring America's river systems and to fostering a river stewardship ethic. Additionally, American Rivers promotes public awareness about the importance of healthy rivers and the threats that face them. American Rivers' programs address flood control and hydropower policy reform, endangered aquatic and riparian species protection, instream flow, clean water, and urban rivers.

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954 with over 5,000 members and 100 local-based affiliate clubs, representing whitewater paddlers across the nation. American Whitewater's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. As a conservation-oriented paddling organization, American Whitewater has a significant percentage of members residing in Washington State and thus an interest in the Sunset Falls area potentially affected by this project.

North Cascades Conservation Council (NCCC) is a 501(c)(3) not-for-profit organization

formed to protect and preserve the North Cascades' scenic, scientific, recreational, educational, and wilderness values. NCCC has a 50 year history of aggressively promoting National Parks and Wilderness, protecting old growth forests and pristine watersheds, conserving endangered wildlife, preventing off-road vehicle damage to public lands, and guiding Park and Wilderness management.

The Sierra Club organizes into groups focused on the environmental concerns within our local communities. The Washington State Chapter is an environmental organization working to improve and preserve quality of life, for our families, for our future, throughout Washington State.

The Mountaineers was formed in 1906 to explore the wild areas and peaks surrounding the City of Seattle. The Mountaineers works to ensure that wilderness areas are preserved and protected through the actions of our Conservation, Recreation Resources and Stewardship divisions, and with a mission to enrich the community by helping people explore, conserve, learn about and enjoy the lands and waters of the Pacific Northwest.

Founded in 1979, Washington Wild is a nonprofit 501c(3) conservation organization with more than 10,000 members and supporters statewide. Its mission is to preserve and restore wild lands and waters in Washington State through citizen empowerment, support for grassroots community groups, advocacy and public education.

B. Grounds for Intervention

Intervention by the Conservation Groups is in the public interest as required by 18 C.F.R. §385.214(b)(2)(iii). The Conservation Groups have significant and undeniable interests in the preservation of Sunset Falls and the South Fork Skykomish River's natural, recreational and free-flowing resources. No other parties to the proceeding will be able to adequately represent those interests and therefore the Conservation Groups have a direct and substantial interest in the outcome of this proceeding.

C. Comments

The Conservation Groups appreciate Public Utility District No. 1 of Snohomish County's (PUD) outreach and early collaboration regarding their plans to build new conventional hydropower projects. However, we do not support the construction of new dams such as the Sunset Falls Project that result in high environmental cost relative to other alternatives that are available. We file in opposition to this project and believe that issuance of a preliminary permit is not in the public interest for the reasons outlined below:

Minimal Power

The estimated annual nameplate capacity for this proposed project is 30 MW. However, as noted in the application, the actual generation will be dependent on minimum stream

flows. As such, the project's actual capacity given limited seasonal flows will be 13.7 MW.²

While we understand that proximity to existing Snohomish PUD facilities makes this project attractive to the PUD, given the number of existing dams in Washington State,³ and the number of dams that currently do not generate electricity or that are not operating at peak efficiency,⁴ new dam construction should not be contemplated until we maximize use from existing dams and existing hydropower projects.

Previous developers of small, low-power projects in the North Cascades area (including multiple permits at Sunset Falls)⁵, have sought permits and licenses but did not commence construction due to minimal economic and power benefits and the numerous site-specific issues. While a preliminary permit does not allow development of this site, it still begins a time-consuming proceeding that will expend the applicant's resources as well as those of the Commission, other public agencies, and interested stakeholders. Such a proceeding on sites that have previously been deemed unsuitable and/or uneconomic for development, and that will have significant environmental impacts, is not in the public interest.

Substantial Environmental Impacts

The Conservation Groups have discussed with Snohomish PUD ways to conserve additional energy, to utilize existing dams and to pursue new hydropower technologies, all with the goal of avoiding the need to build new dams that have adverse environmental impacts. We understand that Snohomish PUD is actively pursuing some of these strategies, which we support. However, continuing to explore new development at Sunset Falls is inconsistent with those strategies. Further, it is an inappropriate location for development of a new hydropower project.

² The preliminary permit application, at page 4, states that "estimated average annual power generation is approximately 120,000,000 kWh corresponding to average generation at 13.7 MW. FERC eLibrary Accession No. 20110928-5081.

³ Currently, the Washington Department of Ecology's 2011 Inventory of Dams lists 1165 dams <http://www.ecy.wa.gov/pubs/94016.pdf>

⁴ The U.S. Hydropower Resource Assessment for Washington, prepared in 1997 by Idaho National Engineering and Environmental Laboratory, lists 249 existing dams in Washington that do not produce power (such as flood control or storage dams) or where the total power has not yet been fully developed (efficiency upgrades). The report models potential development of 2,652 MW that could be added simply by improving efficiencies or adding hydro to non-power dams. (Developing all the state's potential hydro sites through construction of new dams would only add 762MW).

⁵ A number of hydropower projects have been proposed at Sunset Falls over the years. Puget Sound Energy explored the site early in the 20th century. Snohomish PUD was awarded a preliminary permit for the site in September 1981 (FERC P-4786) but in September 1984 made a decision not to further pursue the project after it was determined that it was marginally feasible and had several sensitive issues. Pacific Hydro submitted a permit application in October 1984 (FERC P-8644) that it withdrew in September 1985. Sunset Falls LP submitted a permit application in September 1991 (FERC P-11195) that it withdrew in September 1993. Tacoma Public Utilities submitted a permit application in December 1991 (FERC P-11216) that it withdrew in May 1992.

Development of the Sunset Falls Hydroelectric Project would have many environmental impacts, including impacts on aesthetics, recreation, and resident fish and wildlife habitat and species. The project would greatly reduce flows on a scenic cascade-and-falls combination and would result in construction impacts from building a new 1.1 mile bypass, a 2000 ft. by 19 ft. diameter intake tunnel, a semi-underground powerhouse, a 2 acre impoundment (reservoir) and a 8.5 transmission line to the existing substation in Gold Bar.

In addition to the significant environmental impacts, the project proposed in the PUD's preliminary permit application would be plainly inconsistent with a number of relevant comprehensive plans that have previously been filed with the Commission.⁶ This inconsistency runs counter to Section 10(a)(2)(A) of the Federal Power Act (FPA) (16 U.S.C. § 803 (a)(2)(A)) that specifically requires the Commission, when licensing a project, to consider “ the extent to which [a] project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by an agency established pursuant to Federal law that has the authority to prepare such a plan; or the State in which the facility is or will be located.”⁷

The Skykomish River is part of the Washington State Scenic River system, the legislative purpose of which is to “protect and preserve the natural character of such rivers and fulfill other conservation purposes.”⁸ Rivers in the system “shall be preserved in as natural a condition as practical and that overuse of such rivers, which tends to downgrade their natural condition, shall be discouraged.”⁹ In addition the section of the Skykomish River that includes Sunset Falls is in a Northwest Power and Conservation Council Protected Area from hydropower development, and has been recommended to Congress for designation as a National Wild and Scenic River for its Scenic, Recreation, Fish, and Wildlife values by the U.S. Forest Service.¹⁰ The Commission has long recognized the importance of regional and coordinated planning, and has declined to issue licenses in cases where the negative impacts of a proposed project would run counter to these regional plans. Wild and Scenic suitability, protected area status, and status as a State Scenic Waterway each constitute relevant in-place plans and strategies to enhance and

⁶ Such plans include but are not necessarily limited to: Mt. Baker/Snoqualmie National Forest Land and Resources Management Plan (June 1990); National Park Service Nationwide Rivers Inventory (June 1982); NWPPC Protected Areas Amendment (Sept. 14, 1988); and NWPPC Sixth Northwest Conservation and Electric Power Plan (February 2010).

⁷ See COMPREHENSIVE PLANS IN THE FEDERAL ENERGY REGULATORY COMMISSION'S LICENSING PROCESS <http://www.ferc.gov/industries/hydropower/gen-info/licensing/complan.pdf>, which identifies the following types of Federal and state comprehensive plans generally: “watershed plans prepared by the Department of the Army, Corps of Engineers Districts; plans for the protection of fishery resources, migratory waterfowl, and unique ecosystems prepared by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; land and resource management plans prepared by the Forest Service, Bureau of Land Management, or National Park Service; and State Comprehensive Outdoor Recreation Plans (SCORP).”

⁸ Revised Code of Washington 79A.55.

⁹ Revised Code of Washington 79A.55.005

¹⁰ Land Resource and Management Plan, Mt. Baker-Snoqualmie National Forest, Appendix E, June 1990; NWPPC Protected Areas Amendment (Sept. 14, 1988).

protect the aquatic, aesthetic, habitat, recreational and conservation resources of the Skykomish River.¹¹

For the foregoing reasons, we do not agree with the PUD's repeated description of the Sunset Falls Project as a "low-impact hydropower project"¹² or that it will, with limited available seasonal flows, "provide an environmentally sound, carbon-free, sustainable, and dependable energy source."¹³

New Hydropower Dams Do Not Count as a Renewable Resource in Washington State

In its description of project benefits, Snohomish PUD's preliminary permit application discusses Washington State's renewable portfolio standard that requires large utilities such as the PUD to provide 15 percent of their load from new, renewable energy resources by 2020.¹⁴ However, as the PUD acknowledges, the Washington standard does not count power generation from newly constructed hydropower projects such as the one it is proposing as eligible under this standard. Therefore the PUD's speculative assertion that one of the project benefits will be to help the PUD meet the state RPS requirements is inaccurate and misleading.

III Conclusion

The Conservation Groups strongly object to the development of the Sunset Falls Hydroelectric Project due to the significant negative impacts on the recreational, aesthetic, habitat and ecological values, as well as the free flowing nature of the Skykomish River. These impacts, if allowed to occur, would violate directives and policies governing the management of this river found eligible and recommended for designation under the Wild and Scenic Rivers Act and designated as a Northwest Power and Conservation Council Protected Area.

Should the Commission opt to issue a preliminary permit in this proceeding, rather than use its discretion to deny it,¹⁵ we recommend that the Commission direct the applicant to clearly describe how the project will not run counter to the multiple national, regional and local comprehensive river conservation planning strategies that have been implemented to protect the environmental and recreational public resource values of the Skykomish

¹¹ See City of Idaho Falls, Shelley Project No. 5090-005, "Order Denying License", issued September 24, 1997. FERC eLibrary Accession No. 19970925-3154: "Federal and state agencies responsible for managing the aquatic and wildlife resources of the Snake River have recognized the negative impacts of past development on environmental resources, and have implemented various plans and strategies to enhance and protect those resources."

¹² The PUD has identified the Sunset Falls site as being of interest during its Preliminary Assessment of Low-Impact Small Hydropower Generation, Preliminary Permit Cover Letter, FERC eLibrary Accession No. 20110928-5081

¹³ Preliminary Permit Application at Page 4. FERC eLibrary Accession No. 20110928-5081

¹⁴ Preliminary Permit Application at Page 4. FERC eLibrary Accession No. 20110928-5081

¹⁵ As previously stated by the Commission, "nothing in the Federal Power Act requires the Commission to issue a preliminary permit; whether to do so is a matter solely within the Commission's discretion" (FERC eLibrary Accession No. 20070215-3073).

River.

We respectfully request that the Commission grant the Conservation Groups' Motion to Intervene, providing each with party status in the proceedings related to Snohomish PUD's application for Preliminary Permit for the proposed Sunset Falls Project.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. O'Keefe', with a stylized flourish at the end.

Thomas O'Keefe
Pacific Northwest Stewardship
Director
American Whitewater
3537 NE 87th St.
Seattle, WA 98115
okeefe@americanwhitewater.org
(425) 417-9012

Dated: December 20, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of December 2011, served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Carla Miner

Carla Miner
Stewardship Assistant
American Whitewater

Service List for P-14295-000 Snohomish County PUD No. 1

Contacts marked ** must be postal served

Party	Primary Person or Counsel of Record to be Served	Other Contact to be Served
National Marine Fisheries Service		Jane S Hannuksela, ESQ NOAA NOAA GCNW, Bldg. 1 7600 Sand Point Way, N.E. Seattle, WASHINGTON 98115 Jane.Hannuksela@noaa.gov
NOAA National Marine Fisheries Service	Keith Kirkendall NOAA 1201 NE Lloyd Blvd Suite 1100 Portland, OREGON 97232 UNITED STATES keith.kirkendall@noaa.gov	Steven M Fransen biologist Individual 510 Desmond Drive SE Suite 103 Lacey, WASHINGTON 98503 steven.m.fransen@noaa.gov
Snohomish County PUD No. 1	Kim Moore Assistant General Manager Public Utility District No. 1 of Snohomish County, Washington PO Box 1107 Everett, WASHINGTON 98206-1107 UNITED STATES kdmoores@snopud.com	
TULALIP TRIBES OF WASHINGTON	MICHELLE DEMMERT TULALIP TRIBES OF WASHINGTON 6406 Marine Drive Tulalip, WASHINGTON 98271 UNITED STATES MDEMMERT@TULALIPTRIBES-NSN.GOV	Daryl Brent Williams Environmental Liaison TULALIP TRIBES OF WASHINGTON 6406 Marine Drive Tulalip, WASHINGTON 98271 dwilliams@tulaliptribes-nsn.gov
Washington Department of Fish and Wildlife	Bill Frymire Senior Counsel Washington Office of Attorney General PO Box 40100 Olympia, WASHINGTON 00100 UNITED STATES billf@atg.wa.gov	Brock Applegate Washington Dept. of Fish & Wildlife Habitat Division 111 Sherman St La Conner, WASHINGTON 98257 brock.applegate@dfw.wa.gov