



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 8, 2009

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

Re: Project No. 12731, Kootznoowoo [*sic*] Inlet
Hydrokinetic Pilot Project Draft License Application

Dear Secretary Bose:

The National Marine Fisheries Service (NMFS) has reviewed the draft hydrokinetic pilot license application for the referenced project proposed by Natural Currents Alaska LLC and Natural Currents Energy LLC (“Natural Currents”) and posted on the Federal Energy Regulatory Commission (FERC) docket December 10, 2008. The draft application raises concerns with respect to FERC’s criteria for hydrokinetic pilot project licensing procedures. NMFS believes the scope of the document is insufficient to support environmental analysis as required by FERC’s pilot licensing guidance. We recommend FERC reject the draft and instruct the applicant to comply with required pre-filing actions, including consultation with NMFS and other Federal and state agencies, if they wish to proceed with this proposal.

NMFS supports the development of pilot hydrokinetic projects as a means to develop this nascent and potentially important renewable energy technology, and to gather information on potential environmental impacts. We recognize pilot projects can be effective in guiding future large-scale developments in an environmentally sound manner. At the same time, NMFS is mindful of the need to protect environmental resources during project development by adhering to standard licensing procedures. Natural Current’s draft hydrokinetic pilot license application is deficient in this regard because it does not: (1) adequately describe the existing environment, (2) contain sufficient details of the proposed project, (3) estimate the potential effects of the proposal, (4) contain adequate plans for (a) monitoring, (b) safeguarding environmental resources, and (c) assuring financing to remove the project and restore the site, or (5) contain a consultation record. In addition, the applicant has not distributed pre-filing materials to potentially interested stakeholders, as required by FERC, and it fails to address potential areas of sensitivity, including species and habitats.

FERC criteria for pilot projects include the avoidance of sensitive locations. Natural Current’s draft application did not address the issue of sensitivity in the proposed project area. A major harbor seal haulout is located close to Kootznahoo Inlet in Mitchell Bay. Lull Point, 15 miles south of Angoon, is a major haulout and designated critical habitat for Steller sea lions. In addition to the five species of Pacific salmon, the area is considered Essential Fish Habitat for various life stages of a large number of federally managed marine and anadromous fish species. The area is also extremely important for spawning Pacific herring – a major prey source for Steller sea lions, humpback whales, and other marine mammal species. Moreover, the applicant



proposes to site the project at the mouth of an ecologically important estuary within a National Monument in violation of FERC's pilot process suitability factors.

The draft application is required to contain records of the distribution of pre-filing materials to interested stakeholders as well as a consultation record indicating adequate consultation to date. NMFS has neither received materials nor a request for consultation from the applicant. Furthermore, because species noted in the project area are covered under the Endangered Species Act, the Marine Mammal Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act, the applicant should expect to consult with NMFS not just as a stakeholder, but as the Federal agency with authority for anadromous and marine fish species, marine mammals, and their habitat. The applicant's failure to pursue pre-filing consultation with NMFS does not comply with the "*reasonable attempts*" effort required under the Commission's guidance on use of the pilot licensing process.

Under FERC procedures, NMFS would ordinarily conduct a detailed review of the applicant's draft license application. Given the lack of information regarding this project, as evidenced in the draft application, NMFS cannot effectively review the draft license application and provide more specific comments on potential impacts to our trust resources. These deficiencies should be remedied through appropriate research, consultation and documentation. Once remedied, NMFS will review any revised draft license application filed by Natural Currents in detail when the record reflects that the applicant has adequately completed pre-filing consultation, materials have been distributed, a draft application has been accepted by the Commission, and the 30-day time review period commences.

In closing, NMFS recommends that FERC reject this draft license application due to its inadequate content and failure to meet the procedural requirements of FERC's licensing procedures for hydrokinetic pilot projects. If you have any questions regarding the issues raised in this letter, please contact Sue Walker (907-586-7646, Susan.walker@noaa.gov).

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region

Cc: Applicant
Richard Enriquez, USFWS, Juneau, AK, richard_enriquez@fws.gov
Jackie Timothy, ADNR, Juneau, AK, jackie_timothy@alaska.gov
Erin Allee, DCOM, erin.allee@alaska.gov
Jim Ferguson, ADNR, jim.ferguson@alaska.gov
Kootznahoo Inc., Peter Naoroz, CEO, peter@kootznahoo.com,
Kathy Rodriguez, Admiralty Island Nat'l Monument Ranger, krodriguez@fs.fed.us
Emily Lindow, NOAA

FERC: Angoon draft application sw 1-8-09