



October 29, 2012

File: 2002332

**Focus Energy Inc.**  
9588 ARDMORE DR  
NORTH SAANICH BC V8L 5H3

**Dear Sir or Madam:**

**Re: Water Licence Application WLA0Z113925-0001**

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Further to our letter dated September 14, 2012, advising Focus Energy Inc. that the deadline to submit the abandonment form was October 12th, 2012, or Water would proceed with the refusal of your application.

Your application has been refused for the following reason:

- You were unable to acquire the necessary Crown Land Lease or Licence of Occupation to establish required tenure to the land for which this application was submitted. As a result, you do not qualify for a water licence under the Water Act.

As per policy there will be no refund issued on your application.

The Water Act gives the recipient of this notice the right to appeal my decision. Information on filing an appeal can be found on the Environmental Appeal Board Web site at: <http://www.eab.gov.bc.ca/>. A right of appeal from my decision lies to the Environmental Appeal Board. Notice of any appeal must (1) be in writing; (2) include grounds for the appeal; (3) be directed by registered mail to the Chair, Environmental Appeal Board, PO Box 9425 Stn Prov Govt., V8W 9V1 or personally delivered to the office of the Board at 4th Floor, 747 Fort Street in Victoria, BC V8W 3E9; (4) be delivered within 30 days of receiving this letter, and (5) be accompanied by a fee of \$25.00, payable to the Minister of Finance.

If you have any questions or concerns, please contact this office.

Sincerely,

Keith Anderson  
Assistant Regional Water Manager

Ministry of Natural Resource Operations  
Water Management  
TECHNICAL REPORT

Job No: WLA0Z113925-0001

Job Type: WATER LICENCE APPLICATION

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Created By: KWAnders  
Created: Oct-29-2012

## EXECUTIVE SUMMARY

DECISION DUE DATE: May-11-1999

### 1. SUMMARY REMARKS

THE APPLICATION IS TO BE REFUSED. THERE IS NO LAND TENURE ON THE LAND WHERE THIS WATER APPLICATION IS SITUATED. CLIENT WAS GIVEN THE OPTION TO ABANDON TO RECEIVE A 50% REFUND ON THE APPLICATION FEES. NO RESPONSE WAS RECEIVED. SEE UPLOADED LETTER DATED SEPT 17, 2012

### 2. APPLICATION INFORMATION

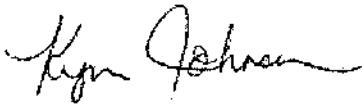
FILE NO:	2002332	REGION:	2 - Lower Mainland	QUICK LICENCE:	No
PRIORITY DATE:	Dec-22-1998	DISTRICT:	20 - New Westminster	PRECINCT:	Hope

### 3. RECOMMENDATIONS

It is recommended that the Application be Refused.

Prepared by:

Date: OCTOBER 29, 2012



K. Johnson  
Water Information Technician

Endorsed by:

Date: OCTOBER 29, 2012



Keith Anderson  
Assistant Regional Water Manager

## A. BASIC APPLICANT INFORMATION

APPLICANT NAME: Focus Energy Inc. (70578)  
9588 ARDMORE DR  
NORTH SAANICH BC V8L 5H3

CLIENT NO.: 70578  
Home Phone: S.22  
Work Phone: (250) 656-5178  
Fax: (250) 656-1123  
Other Phone:

Email Address:

### CERTIFICATE(S) OF TITLE NO.

FILE NO:	2002332	REGION:	2 - Lower Mainland	QUICK LICENCE:	No
PRIORITY DATE:	Dec-22-1998	DISTRICT:	20 - New Westminster	PRECINCT:	Hope
APPLICATION CONTACT NAME:				PHONE NO.	

STREAM NAME(S):  
Sowerby Creek  
Tributary To: Silverhope Creek

APPURTENANCY:  
POWERHOUSE SITUATED ON UCL YDYD "ON CROWN LAND - NO LAND TENURE APPLIED FOR"

### PID & LTO CODES:

### PURPOSE/USES:

Sector:	MWP - Major Waterpower Production	Purpose/Use:	07C - Power-General
Quantity	Units	Term Start	Term End
1.7	m3/sec	January 1	December 31

### POINT(S) OF DIVERSION:

POD	Point of Re-Diversion	Water Rights Map
PD65401	NO	92H/6cd

Stream Name: Sowerby Creek  
Watershed Code/Name: Fraser River

POD Comments:

## B. ADMINISTRATIVE DETAILS

### 1. GENERAL COMMENTS

### 2. SOURCE AND POD COMMENTS

### 3. WATER RESERVES

COMMENTS

Ministry of Natural Resource Operations  
Water Management  
TECHNICAL REPORT

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**4. WATER ALLOCATION RESTRICTION(S)**

EXISTING RESTRICTION(S):

NEW RESTRICTION(S) RECOMMENDED:

COMMENTS BY REPORT WRITER:

**5. APPURTENANT LAND RELATED ISSUES**

OTHER LICENCES ON APPURTENANT LAND:

OTHER APPLICATIONS ON APPURTENANT LAND:

APPURTENANT LAND WITHIN MUNICIPALITY, IMPROVEMENT DISTRICT OR IRRIGATION DISTRICT:

COMMENTS BY REPORT WRITER:

**6. PERMIT OVER CROWN LAND**

COMMENTS BY REPORT WRITER

**7. REFERRALS**

COMMENTS BY REPORT WRITER

**8. NOTIFICATIONS (OBJECTIONS)**

Although objection(s) were filed (as noted below), it is recommended that they be on the basis that:

**8a. DOWNSTREAM LICENSEES**

COMMENTS BY REPORT WRITER

**8b. JOINT WORKS**

COMMENTS BY REPORT WRITER

**8c. OTHER LANDS PHYSICALLY AFFECTED BY WORKS**

COMMENTS BY REPORT WRITER

**9. OTHER CONCERNED PARTIES**

COMMENTS BY REPORT WRITER

**10. WATER LICENCES REQUIRING AMENDMENT**

COMMENTS BY REPORT WRITER

**C. TECHNICAL INFORMATION**

**1. WATERSHED CHARACTERISTICS**

COMMENTS BY REPORT WRITER

Ministry of Natural Resource Operations  
Water Management  
TECHNICAL REPORT

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## 2. WATER BALANCE

### 2a. SUMMARY OF LICENCED DEMAND

Licence/Application	Domestic (m3/d)	Other (m3/d)	Irrigation* (m3/y)*	Other (m3/y)	Other (m3/s)	Storage (m3/y)	Daily Seasonal Demand in m3/s
Existing rights	0.000	0.000	0.000	0.000	0.00000	0.000	0.00000
This Application	0.000	0.000	0.000	0.000	0.00000	0.000	0.00000
Totals	0.000	0.000	0.000	0.000	0.00000	0.000	0.00000

\*Irrigation Q based on day period unless otherwise indicated.

COMMENTS BY REPORT WRITER

### 2b. SUMMARY OF MISCELLANEOUS FLOW RECORDS

COMMENTS BY REPORT WRITER

### 2c. ADDITIONAL HYDROLOGIC INFORMATION

COMMENTS BY REPORT WRITER

## 3. PURPOSE AND QUANTITY JUSTIFICATION

COMMENTS BY REPORT WRITER

## 4. DESCRIPTION OF WORKS TO BE AUTHORIZED

COMMENTS BY REPORT WRITER

## 5. WATER USERS' COMMUNITY

WUC NAME:

COMMENTS BY REPORT WRITER

## 6. PUBLIC HEALTH ISSUES

COMMENTS BY REPORT WRITER

## 7. ENVIRONMENTAL CONSIDERATIONS

COMMENTS BY REPORT WRITER

## 8. JUSTIFICATION FOR SPECIAL ADVICE ON COVER LETTER

COMMENTS BY REPORT WRITER

## 9. JUSTIFICATION FOR SPECIAL CLAUSES FOR LICENCE

COMMENTS BY REPORT WRITER

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Water Management  
TECHNICAL REPORT

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**10. SITE INSPECTION**

COMMENTS BY REPORT WRITER

**11. TECHNICAL DRAWING**

COMMENTS BY REPORT WRITER

**12. FIRST NATIONS INFORMATION**

COMMENTS BY REPORT WRITER

**D. LICENCE(S) (Not Applicable)**

**E. PERMIT(S) OVER CROWN LAND (Not Applicable)**

\*\*\*\*\*END OF REPORT\*\*\*\*\*



September 14, 2012

File: 2002332

Focus Energy Inc.  
9588 Ardmore Dr  
North Saanich BC V8L 5H3

Dear Sir/Madam:

Re: Water Power Application on Sowerby Creek

Water Allocation has been notified that you no longer have an interest in the land on which you hold a water power application.

As you no longer have an interest on this land, which is required under Section 7 of the *Water Act*, we are refusing your application.

If the enclosed abandonment form is completed and received in our office on or before October 12<sup>th</sup>, you are eligible for 50% of the application fee as per our policy (see attached).

If we have not heard from you by October 12th, we will proceed with refusing your application, and there will be no refund.

Please submit your abandonment form to the attention of Kym Johnson, Water Information Technician at #200 – 10428, 153<sup>rd</sup> Street, Surrey, BC V3R 1E1 or by email at [Kym.Johnson@gov.bc.ca](mailto:Kym.Johnson@gov.bc.ca)

If you have any questions please contact the undersigned at 604-586-4400.

Yours truly,

Keith Anderson  
Assistant Regional Water Manager



Land File: 2408585  
Water File: 2002332

July 27, 2012

Focus Energy Inc.  
9588 Ardmore Dr  
North Saanich, BC V8L 5H3

Dear Sir or Madam:

Re: Land Application for a Waterpower Project located at or near Sowerby Creek, Hope.

Your application for a waterpower project as described above and accepted on March 8, 2004 has been reviewed in accordance with the new Clean Energy policy.

While we recognize that you have conducted work on the project the current policy requires you to hold an Investigate Licence to ensure that there is ongoing diligent use of the land. All Clean Energy applicants must hold an Investigative Licence which will ensure that investigative activities are being conducted toward the completion and submission of a Development Plan.

A letter was sent to you, dated March 22, 2012 outlining and explaining the requirements for submission of an Investigative Plan in order for us to issue an Investigative Licence, however, to date we have not had a response to our letter and therefore cannot approve your application.

Please be advised that we will be closing our file for this Clean Energy application and will refund 20% of your application fee in accordance with our refund policy. The refund will be sent under separate cover.

Should you be in a position to conduct investigative activities on the land at some time in the future, you may make an application for a Clean Energy project. Please visit the FrontCounter BC website for the most current requirements and policy, and for any questions regarding the completion of an application please contact FrontCounterBC at (604) 586-4400 and ask for a Natural Resource Specialist.

Yours truly,

Alec Drysdale  
Director, Resource Authorizations

/ca

cc: Kym Johnson, Water Stewardship





## TELEPHONE CONTACT RECORD

Date of Call:	Oct 3 2012	File No.:	2002332
Name of Caller:	Bill Johnson	Tel #:	Fax #:
Received by:	Focus Energy Lauri Eytan	Referred to:	Keith Anderson
Nature of Call:	Complaint		

Further Action Required    Yes ☒ No ☐

Letter ☐ Phone call ☒ Other: ☐

Comments

- received letter
- last he ~~heard~~ he felt that the process was not appropriate
- resubmitting information that has already been submitted
- last received letter that said would pull water licence applications
- 250 656-5178

Sowersby Hydroelectric Project

(Signed) \_\_\_\_\_

*L Eytan*

# Required Documents List for Water

W. File No.2002332  
L. File No.2408585

Forms Required		Comments	
Application Form	X	Water 1998, WPP 2003 & revised 2004	
Follow up letters if any re: request for any missing information			
Advertising ie. Gazette / newspapers			
Acceptance Letter	X		
Copy of Cheque	X	\$3,351.00 for WPP application	
WLIS Receipt	X	\$2000.00 from original Water application (no copy of this cheque)	
Referral Package (Letter)	X		
Clearance Certificate / Report (Status Water)	X		
Downstream Notification Report	X		
Status Reports (Land)			
State of Title Certificate (if private land only)			
Project Identification Document (copy in full)	X	Preliminary Project Definition Report	
Hydroelectric Reports / Consultant Reports			
Hydrology Report			
Development Plan			
Legal Documents (List)	X	Certificate of Incorporation (Focus Energy Inc.)	
Legal Land Tenure Documents			
Referral Responses	X		
Maps	X		
Other:	X	Transfer Letter from Canadian Hydro Developers to Focus Energy Inc.	
Environmental Assessment Office Process:			
a) Terms of Reference Document			
b) Letters, notes, emails etc. from the EAO that is to do with the process			

27/03/2006 Reviewed

I:\Cynthia\Water Document Transfers\2002332.xls



March 22, 2012

Land File: 2408585

Bill Johnson  
Focus Energy Inc.  
9588 Ardmore Drive  
North Saanich, British Columbia  
V8L 5H3

Dear Bill Johnson:

**Important Notice: This letter describes action that you are required to take in order to avoid disallowance of your *Land Act* application**

You are receiving this letter because Focus Energy Inc. is listed with the British Columbia Ministry of Forests, Lands, and Natural Resource Operations (FLNR) as having submitted a Crown Land application for the purposes of developing a waterpower project at Sowerby Creek, Hope. The Land file associated with your application is: 2408585 submitted December 29, 2003.

Currently, FLNR is contacting all waterpower applicants to provide information on recent changes to the Crown Land Waterpower Policy. On August 17, 2011, the Land Use Operational Policy for Waterpower was amended to include the use of a *Land Act* Section 11 investigative licence. An investigative licence is the form of tenure provided to authorize initial investigation on Crown land and conduct feasibility studies related to the project. The term of an investigative licence is up to five years at the discretion of the Decision Maker with a possibility of a one-time replacement. The policy is available at [www.for.gov.bc.ca/Land\\_Tenures/documents/policies/waterpower.pdf](http://www.for.gov.bc.ca/Land_Tenures/documents/policies/waterpower.pdf). This policy change is intended to ensure that waterpower applications are being actively pursued by undertaking investigative work.

The policy change to include *Land Act* investigative licences for waterpower projects was first considered in 2010, in consultation with Clean Energy BC. Prior to that date, there was limited uptake for an investigative tenure under the Waterpower Policy. However, investigative licences have been common in the Windpower and Ocean Energy Policies for some time. The decision to move towards the use of an investigative licence for waterpower was made in order to create a level playing field in BC for all clean energy projects, as well as to improve management of Crown land and resources consistent with FLNR's Crown Land Allocation Policy.

To ensure consistency across the sector, *Land Act* waterpower applications submitted prior to August 2011 are now being reviewed with the intent to bring pre 2011 applications into alignment with current requirements for waterpower projects on Crown land (i.e. investigative licence). Many pre 2011 applications do not include sufficient information in their original application package to make a determination on issuance of an investigative licence.

1/3....

If you have any questions about the information contained in this letter, please contact Brian Kukulies at (604) 485-0725 or visit our regional office at 200-10428 153<sup>rd</sup> Street, Surrey. We look forward to working with you further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Anderson', with a stylized flourish at the end.

Mark Anderson, R.P.F.  
District Manager  
Sunshine Coast District

Attachment 1: Investigative Plan Template

cc: Alec Drysdale, Regional Water Manager  
Water File: 2002332

In order to bring pre 2011 applications into alignment with current policy, FLNR will require all proponents with continued interest in pursuing their waterpower application to confirm their intent to proceed with investigations on the project in writing **within 30 days** of receipt of this letter. Please review the two options on the following page for instructions on how to proceed.

**PLEASE NOTE:**

Applicants who do not respond to this letter within 30 days may face disallowance of their application.

**OPTION 1: Yes, I wish to pursue my waterpower application**

If Focus Energy Inc. intends to proceed with investigations, please provide the following information. Please note that failure to respond within the times indicated below may lead to disallowance of your *Land Act* application:

- ☐ **Within 30 days of receipt of this letter:** Respond in writing to Brian Kukulies to confirm your intent to proceed.
- ☐ **Within 45 days of receipt of this letter:** Submit an Investigative Plan for the application area. (See attachment 1).

When developing an Investigative plan (see attached), please consider the following:

- If an investigative licence is issued, the Investigative Plan will be referenced within the terms of the licence tenure document.
- It is expected that the Proponent will adhere to any commitments or investigative schedules outlined in the Investigative Plan.
- Failure to comply with the Investigative Plan is an event of default that may result in cancellation of the tenure and associated waterpower application.
- Investigative Plans are to be submitted to FLNR, 7077 Duncan Street, Powell River, British Columbia, V8A 1W1, Attention: Brian Kukulies.


**OPTION 2: No, I do not wish to pursue my waterpower application**

If Focus Energy Inc. does not intend to proceed with investigations, or has otherwise decided not to pursue the project area under application, please contact Brian Kukulies within **30 days** to formally withdraw the land application and abandon the water application associated with the proposed project.

Applicants that request a withdrawal of their application within the **30 day** timeframe indicated above are entitled to a partial refund of their *Land Act* and *Water Act* application fees, in accordance with the fee refund policies for each program area.

*Note that this letter serves only as information regarding changes to the Crown land licencing requirements for waterpower projects and in no way implies tenure will be offered nor does it give any authorization to occupy or use the Crown land under application.*

## Attachment 1: Investigative Plan Template

	<b>Waterpower Project Application Requirements for an Investigative Licence</b>
<b>The following requirements are part of the Investigative Licence application and must be provided. Incomplete applications will be returned to the applicant.</b>	

☐ **An Investigative Plan, signed and dated, that includes the following:**

☐ **SECTION A: Project Overview**

- Project and purpose;
- Location, size and main features of project, including proposed access to site;
- Project schedule.

☐ **SECTION B: A cadastral plan of an appropriate scale (1:10,000 to 1:20,000) with a north arrow including:**

- The exact perimeter boundaries of the Crown Land application area outlined in red, including the dimensions (in metres) and area (in hectares);
- Proposed location of Works, if known;
- The location of intrusive type activities such as drilling, test pitting, etc.;
- Proposed location of transmission line interconnection;
- The proposed water source and tributaries; and
- District lots and major landmarks as reference points.
- Copies of land titles from the Land Title Office for private lands within the application area, and all legal titles and associated legal plans for any survey parcel within and adjacent to the application area. (Note: The licence will be issued for Crown Lands only).

☐ **SECTION C: Project Description/Investigative Schedule**

- A general schedule/Table of the investigations that will be conducted (i.e. wildlife and habitat studies, geotechnical drilling, fish collection, etc.). Please indicate how the data will be collected and what equipment will be used. Include:
  - activity name;
  - description of activity;
  - approximate time period when activity will occur;
  - activity location (for invasive type activities such as drilling, test pitting, etc., the approximate locations should be identified on the map); and
  - potential impacts of activities