

**FEDERAL ENERGY REGULATORY COMMISSION**  
**Washington, D. C. 20426**

**OFFICE OF ENERGY PROJECTS**

Project No. 2705-037--Washington  
Newhalem Creek Hydroelectric Project  
Seattle City Light

August 12, 2025

VIA USPS First-Class Mail

Jeff Garnett  
U.S. Fish and Wildlife Service  
1009 College Street, Suite 215  
Lacey, WA 98503

Cody Payne  
National Marine Fisheries Service  
Oregon-Washington Coastal Division  
1201 NE Lloyd Blvd., Suite 1100  
Portland, OR 97232

Subject: Request for formal consultation under the Endangered Species Act and  
consultation under Magnuson-Stevens Fishery Conservation and Management Act

Dear Messrs. Garnett and Payne:

On August 6, 2025, Seattle City Light (licensee) requested the Commission initiate formal consultation with the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) pursuant to section 7 of the Endangered Species Act (ESA) regarding the proposed surrender of the Newhalem Creek Hydroelectric Project No. 2705.<sup>1</sup> The project is located on Newhalem Creek, near Newhalem, Whatcom County, Washington. The project occupies federal lands administered by the National Park Service.

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<sup>1</sup> 78 FERC ¶ 62,097 (1997).

The licensee's request follows informal consultations<sup>2</sup> with your offices regarding the surrender application and effects to species listed for protection under the ESA, as well as potential effects to essential fish habitat (EFH) for Pacific salmon species. Commission staff discuss our determinations under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) below. A biological assessment (BA) was included with the original surrender application filed on January 8, 2022.<sup>3</sup> Following the licensee's plans to proceed with full removal of the project, described in its February 21, 2025 filing,<sup>4</sup> the licensee provided your offices with a revised BA on April 16, 2025.

As discussed in the revised BA, 14 species found in the project area that are listed (or proposed for listing) include: Puget Sound steelhead, Puget Sound Chinook salmon, gray wolf, Canada lynx, grizzly bear, North American wolverine, marbled murrelet, northern spotted owl, yellow-billed cuckoo, Mount Rainier white-tailed ptarmigan, bull trout, monarch butterfly, Suckley's cuckoo bumble bee, and whitebark pine. In the revised BA, the licensee determined that the proposed surrender of the project would either have no effect, or may affect but not likely adversely affect, these listed species. For the monarch butterfly and the Suckley's cuckoo bumble bee, the licensee determined that the proposed surrender would not jeopardize the continued existence of these proposed species.

Upon consultation with your offices following submittal of the BA, the licensee states that both Services determined that formal consultation is necessary due to potential effects of downstream sediment transport on bull trout, Puget Sound steelhead, and Puget Sound chinook salmon.

### **Conclusion**

Commission staff have reviewed the BA and are adopting the BA, except for the revised determinations made for the listed fish species. The revised BA can be accessed at the following link:

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<sup>2</sup> The licensee was designated our non-federal representative for the purposes of consultation pursuant to section 7 of the ESA with the FWS and NMFS on July 8, 2021.

<sup>3</sup> The surrender application was supplemented on February 14 and December 12, 2022, April 10 and October 24, 2023, and February 24, 2025.

<sup>4</sup> Commission staff's Environmental Assessment (EA) issued March 29, 2024, identified effects related to the full removal of the project.

[https://elibrary.ferc.gov/eLibrary/filelist?accession\\_number=20250806-5146&optimized=false&sid=a87bb72d-dc1c-4313-a6a9-c7969969e48d](https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20250806-5146&optimized=false&sid=a87bb72d-dc1c-4313-a6a9-c7969969e48d)

We agree that the proposed surrender and decommissioning of the project may affect but is not likely to adversely affect the gray wolf, Canada lynx, grizzly bear, North American wolverine, marbled murrelet, and the northern spotted owl. Staff have also determined the proposed surrender would have no effect on yellow-billed cuckoo, Mount Rainier white-tailed ptarmigan, or whitebark pine. For critical habitat, staff have determined there would be no effect on critical habitat for Canada lynx, grizzly bear, marbled murrelet, northern spotted owl, yellow-billed cuckoo, or monarch butterfly.<sup>5</sup>

For the listed aquatic species which includes Puget Sound steelhead, Puget Sound Chinook salmon and bull trout, Commission staff have determined that the proposed action may adversely affect these listed species and critical habitat due to the potential for downstream sediment transport during decommissioning and removal. Therefore, we request formal consultation on these three species.

The lower reach of Newhalem Creek within the project area and the Skagit River at the confluence with Newhalem Creek contains EFH for salmonids including Chinook, Coho, and Pink salmon. Based on the BA, Commission staff agree that the transport of any sediments downstream would not measurably alter the use of the lower portions of Newhalem Creek or degrade EFH functions. Commission staff determined that the proposed surrender of the project would not adversely affect EFH for these species.

As required by section 7 of the ESA, we are requesting formal consultation with your offices. Please provide us with your Biological Opinion that addresses potential effects on the listed fish species, as well as written concurrence on all other species. We also ask that you provide concurrence on our EFH determination. If you disagree, we ask that you provide your rationale, and any conservation measures recommended by NMFS for the protection of EFH in the project area. We ask that you respond no later than 135 days from your receipt of this letter. If we do not hear from you within 30 days, we will assume that you have sufficient information to initiate formal consultation.

The Commission strongly encourages electronic filing. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed

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<sup>5</sup> Described in Table 8.1-1 of the revised BA.

to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P-2705-037.

We appreciate your assistance with consultation under ESA and the MSA. If you have any questions regarding this matter, please contact Diana Shannon at 202-502-6136 or [diana.shannon@ferc.gov](mailto:diana.shannon@ferc.gov).

Sincerely,

Jot Splenda, Chief  
Environmental and Project Review Branch  
Division of Hydropower Administration  
and Compliance

cc: VIA FERC Service

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