

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

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

October 28, 2022

VIA FERC Service

Mr. Michael Haynes
Assistant General Manager
Seattle City Light
PO Box 34023
Seattle, WA 98124

Reference: Additional Information Request for the Newhalem Creek Project

Dear Mr. Haynes:

We are in the process of reviewing the surrender application for the Newhalem Creek Hydroelectric Project No. 2705, filed on January 28, 2022. We have determined that additional information is necessary to complete our analysis. Pursuant to section 4.32(g) of the Commission's regulations, please provide the additional information requested in the enclosed Schedule A within 45 days from the date of this letter. If the requested information causes any part of the application to be inaccurate, that part must be revised and refiled by the due date. Also, please be aware that further requests for additional information may be sent to you at any time before final action on your license application.

The Commission strongly encourages electronic filing. Please file the requested information using the Commission's eFiling system at <https://ferconline.ferc.gov/eFiling.aspx>. For assistance, please contact FERC Online Support at FERCOnlinesupport@ferc.gov; call toll-free at (866) 208-3676; or, for TTY, contact (202) 502-8659. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-2705-037.

If you have any questions, please contact Diana Shannon at (202) 502-6136, or diana.shannon@ferc.gov.

Sincerely,

A handwritten signature in black ink that reads "Shana M Wiseman". The signature is written in a cursive, slightly slanted style.

Shana Wiseman

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

Attachment: Schedule A –Requests for Additional Information

REQUESTS FOR ADDITIONAL INFORMATION

Comments on Surrender Application

1. In comments on the surrender application, the National Park Service (Park Service) and Washington Dept. of Fish and Wildlife (Washington DFW) both recommended a grade control structure be constructed in Newhalem Creek near the current diversion dam to prevent head-cutting in the channel. Please provide a cost estimate for the establishment of an appropriate location and for the construction and maintenance of such a grade control structure. Washington DFW also recommended that a maintenance plan be developed for the grade control structure. Please provide a cost estimate for development of the plan and a cost estimate for operation and maintenance of the structure.
2. In comments on the surrender application, the Park Service concurred with the proposed abandonment of the diversion dam access road from the EAP muster location/elevation 840 feet to the diversion dam, but also recommended that the abandoned roadbed be removed/restored. This recommendation was echoed by the Upper Skagit Indian Tribe in comments on the surrender application, suggesting that it be restored as a trail. Please provide a cost estimate to remove/restore the roadbed as recommended by the Park Service and a cost estimate to restore the road as a trail as recommend by the Upper Skagit Indian Tribe.
3. In comments on the surrender application, Washington DFW recommended that, if the powerhouse is retained, the service lines that provide electricity to the powerhouse be relocated under the Skagit River or be relocated to cross the river on the existing pedestrian bridge to eliminate avian collision/fatalities. Please provide a cost estimate for each of these options.

Exhibit A

4. In Exhibit A, section A.2, you mention the access road to the powerhouse. Please provide the length, width, and surface condition (paved, gravel, etc.) of the powerhouse access road from Newhalem Campground to the Newhalem powerhouse. We note in comments on the surrender application, the National Park Service (Park Service) recommends that if full project removal was required, the powerhouse access road should end at the crossing of the Rock Shelter Trail near the bridge over Newhalem Creek and recommends the removal/restoration of the rest of the road from that location to the Newhalem powerhouse. Please provide the length of the road from the Rock Shelter Trail crossing to the powerhouse and estimate the cost to remove/restore the road as recommended by Park Service.

5. The surrender application (page A-5, section A.2, Current Project Description) refers to the Skagit River Project flood evacuation route trail that starts at the Trail of the Cedars near the Newhalem powerhouse and continues upslope along the Newhalem penstock to a location near the “penstock adit” which is considered to be at a high enough elevation to be safe from a projected PMF dam failure of the Ross Dam upstream on the Skagit River. While we realize that this evacuation route and trail are associated with the Skagit River Project, and not directly associated with the Newhalem Project, we have questions about the effect, if any, of the decommissioning of the Newhalem Project on the evacuation trail. The trail is discussed in your Public Safety Plan for the Skagit and Newhalem projects that was filed on December 17, 2019 (Accession number 20191217-5044), but we cannot access the drawings that were filed with the plan (they are identified at pdf files in the document, but are not downloadable, and do not appear to have been filed separately). To address our questions, please provide the following information:
- a. Please provide drawings C-7200, C-7201, C-702, and C-7208 that are part of the PSP filing identified above. The drawings should be filed as CUI/CEII materials.
 - b. If the drawings above do not show the location of the “safe location” on the trail, please provide a drawing or map that shows the location of the safe location in relation to existing project structures. The drawing/map should be filed as CUI/CEII materials.
 - c. Please provide the elevation of the safe location (e.g., the diversion dam EAP muster site is identified as being located at elevation 840 feet).
 - d. Please describe the proposed status and condition of the evacuation trail after partial or full removal of the Newhalem Project and City Light’s plans to continue to maintain the trail as part of the Skagit Project in perpetuity for potential flood evacuation purposes.

Exhibit D

6. In Exhibit D, section D.1, you provide the total cost of Alternative C – partial removal of certain project structures and retention of others (\$5.2 million). Given some stakeholders commenting on the application have recommended full removal of all project features, for use in our analysis, please provide the comparable cost for Alternative B – full removal. In addition, please provide a breakdown of costs for each major removal/retention activity (e.g., diversion dam, intake/headworks structure, diversion dam pedestrian bridge, penstock, powerhouse, diversion dam access road, powerhouse access road, tailrace, fish barrier, transmission lines, and any other major activities not listed above) for both Alternative B and Alternative C.

Exhibit E

Geology and Soils

7. In section E.5.5.2, you state that the change in channel bed elevation would be greatest just upstream from the removed diversion, with 4 to 7 feet of bed-lowering extending approximately 1,000 feet upstream from the diversion. Please explain how this change in bed elevation was estimated. Also, please estimate how far upstream from the diversion bed-lowering of one foot or more feet is expected to occur before equilibrium is established.
8. In section E.7, References, in Exhibit E, you list reference documents used to prepare the surrender application. We attempted to locate the two references listed below but they do not appear to be publicly available. Please provide these references for inclusion in the public record.
 - a. Dube, K.V., 2021. Newhalem Dam decommissioning geomorphology considerations. Draft Report. Newhalem Creek Hydroelectric Project FERC No. 2705. Prepared for City Light by Watershed Geodynamics. October 2021.
 - b. Golder Associates, 2021. Summary of field observations and proposed additional investigations of Newhalem access road debris slide. Prepared for Seattle City Light, May 21, 2021.
9. In section E.5.8.1, you state that the soils around and under the penstock and saddles were found to be contaminated and were part of a Comprehensive Environmental Response, Compensation, and Liability Act cleanup effort. In your response to comments on the surrender application, filed on July 1, 2022, your response to comment #23 provides additional information pertaining to this issue, including that three environmental assessments (July 2014, October 2015, and in 2016) were conducted, 171 tons of contaminated soil was removed from the site, and that an Engineering Evaluation and Cost Analysis (EECA) Risk Assessment determined that contaminant concentrations that remained in site soil after the cleanup effort do not pose unacceptable risk to people or ecological receptors and additional removal of contaminated soil is not required. In response to comment #18, City Light commits to complete an evaluation of the materials in the penstock tunnel and the potential for toxicological effects and providing the Park Service a copy of the evaluations once available. On June 2, 2022, the Park Service commented that City Light conduct a complete environmental site assessment within the existing footprint to determine whether any potential environmental liability exists as a result of City Light operations. Please provide documentation of: (1) the three sampling programs

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conducted in 2014–2016, (2) the EECA Risk Assessment and any pertinent information about the sampling program on which it is based, (3) any other known contaminants in the project area (including the 2020 and 2021 analyses, and the draft document referred to in comment #23) and/or the intermittent stream near the penstock, and (4) details including the schedule for the penstock-tunnel sampling program addressed in your response to comment #18.

Threatened, Endangered, and Special Status Species

10. The Biological Assessment included with the surrender application analyzes effects of the partial removal alternative on species federally listed under the Endangered Species Act. Given commenters expressing a need for the NEPA document to provide an analysis of an alternative that includes full removal of project facilities, please revise the Biological Assessment to include analysis of the effects of full project removal on federally-listed species.
11. Commission staff conducted a search of the Fish and Wildlife Service's Information for Planning and Consultation (IPaC) database on October 18, 2022, to confirm threatened, endangered, proposed, and candidate species with potential to occur in the project area. The search identified the monarch butterfly, which Fish and Wildlife determined to be a candidate species in December 2020 (85 FR 81813). The Biological Assessment included with the surrender application does not address this species. Please provide an assessment of potential effects of the proposed action on monarch butterfly, including an assessment of potential for the species to occur in the project area.

Recreation

12. Section E.5.10 Recreation and Visitor Use of the Application for Surrender briefly describes recreation and visitor use in the project area. However, trail use data in and around this project is limited, and any data provided is unlikely representative of current use of area given the outdated reference to the data submitted as part of the 1992 license application. Please provide any additional more recent trail usage data for the Newhalem Creek area, specifically for use of the Newhalem Creek Trail to access nearby waterfalls, and the creek above the waterfalls. Please also provide any more recent data about visitor use to and occurring in the project area.

Historic and Cultural Resources

13. In your application, you identify several pending actions related to cultural resources. Additionally, in response to comment #4 in your letter to the Commission filed on July 1, 2022, you state that you will be initiating section 106 consultation with the Washington SHPO, NPS, and others. Please provide the status of that

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consultation and an update and schedule for completion of the following outstanding tasks:

- Determination of the project Area of Potential Effects (APE). In your response to comment #52 in appendix C of your application, you state that you are currently working to develop a proposed APE in consultation with the Tribe and the Washington SHPO. Please file a detailed map of the proposed APE, including all lands within the current project boundary and all areas that would potentially be affected by project decommissioning activities (i.e. laydown and work areas, spoil areas, access roads, etc.);
- Completion of Archaeological Surveys: In your application, you note that one archaeological site (45WH2029), the deposits of which were removed during CERCLA cleanup, has been identified at the project. However, in section E.5.8.3 of your application, and in your responses to comments #41 and #43 from the Upper Skagit Indian Tribe in appendix C of your application, you state that additional cultural resource surveys, including subsurface investigations, will be conducted prior to project decommissioning. Additionally, in your response to comment #57 in appendix C also from the Upper Skagit Indian Tribe, you state that you will consider mitigating adverse effects to TCP 4WH450 by conducting an archaeological survey along the portion of the glacial terrace extending from Newhalem Creek east to the penstock. An assessment of the known sites on the glacial terrace will be included in the cultural resources assessment. Finally, in your response to comment #9 from the Park Service in your July 1, 2022 letter, you state that you will be retaining a consultant to conduct the outstanding surveys and to evaluate the effects of the project on identified resources. Please clarify if the lands extending from Newhalem Creek east to the penstock would be included in the proposed APE and provide a schedule for completion of the additional archaeological surveys and the filing of a final report for Commission review;
- Historic Structures: The Newhalem Project facilities contribute to a hydroelectric historic district that is listed on the National Register (DT66). In your response to comment #52 from the Upper Skagit Indian Tribe in appendix C of your application, you state that an update of the Skagit River and Newhalem Creek Hydroelectric District nomination form would be completed in 2022 in compliance with Skagit River Hydroelectric Project license requirements. Completion of this document is relevant to the decommissioning of the Newhalem Creek project. Additionally, in response to comment #9 from the Park Service in your July 1, 2022 letter, you state that you will be retaining a consultant to evaluate the effects of the project on all structures. Please provide the status of these two activities related to historic structures.

- Traditional Cultural Properties: One TCP of importance to the Upper Skagit Indian Tribe has been identified in the vicinity of the project (45WH450). In your response to comment #9 from the Park Service in your July 1, 2022 letter, you state that you will be continuing to consult with the Tribes regarding traditional cultural resources. Please provide a summary description of TCP 45WH450 and the status of your continued consultation with the participating Tribes regarding the potential effects of the proposed decommissioning on this property and any other locations that may be of traditional importance. To protect the confidential nature of this property, please file this information as “privileged”; and
- Historic Resources Management and Mitigation Plan (HRMMP): In Table C-1 of your application, you propose to develop a HRRMP between September 2022 and March 2025. Please clarify whether a draft of this plan would be available for Commission review and consideration prior to issuance of our draft NEPA document.

Anticipated Plans

14. In the surrender application, you list several plans that you propose to develop for the completion of Alternative C, partial project removal. These include a Restoration Plan, an Invasive Species Management Plan, a Road Decommissioning Plan, a Spill Plan, a Sediment and Erosion Control Plan, and a Historic Resources Mitigation and Management Plan. You also state that adverse effects on environmental resources would be mitigated by measures included in other plans that would be developed (i.e., a Stormwater Pollution and Prevention Control Plan; a Temporary Erosion and Sedimentation Control Plan; a Spill Prevention and Response Plan; a Spill Prevention Containment and Control Plan; and resource-specific management plans to be developed in consultation with agencies and Tribes) and provide some of the anticipated measures. In order for Commission staff to incorporate the anticipated benefits of the measures and best management practices (BMPs) included in these plans in our analysis of project effects, please file draft versions of the plans that identify the types of measures and BMPs you anticipate including in these plans. Also, please clarify whether the Spill Plan, Spill Prevention and Response Plan; and Spill Prevention Containment and Control Plan referred to in the surrender application are the same plan or independent plans. Additionally, please provide cost estimates for the development and implementation of each plan for Alternatives B and C.

Environmental Justice

15. Executive Order 14008, Tackling the Climate Crisis at Home and Abroad,¹ and Executive Order 12898, Federal Actions to Address Environmental Justice in

¹ 86 Fed. Reg. 7,619-7,633 (January 27, 2021).

Minority Populations and Low Income Populations,² as amended, require federal agencies to consider if impacts on human health or the environment would be disproportionately high and adverse for environmental justice (EJ) communities in the surrounding community resulting from the programs, policies, or activities of federal agencies. To assist Commission staff with its analysis under the National Environmental Policy Act (NEPA), please provide the following:

- a) A table of racial, ethnic, and poverty statistics for each county, and census block group within the geographic scope of analysis. In this case, the geographic scope of analysis is areas within [one mile for no/minimal construction up to 5 miles for major construction] of the [existing or proposed, whichever is larger] project boundary. The table should include the following information from the U.S. Census Bureau's most recently available American Community Survey 5-year Estimates for each state, county, and block group (wholly or partially) within the geographic scope of analysis:
 - i. Total population;
 - ii. Total population of each racial and ethnic group (i.e., White Alone Not Hispanic, Black or African American, American Indian and Alaska Native, Asian, Native Hawaiian and Other Pacific Islander, some other race, two or more races, Hispanic or Latino origin [of any race]) (count for each group);
 - iii. Minority population including individuals of Hispanic or Latino origin as a percentage of total population;³ and
 - iv. Total population below poverty level as a percentage.⁴

The data should be collected from the most recent American Community Survey files available, using table #B03002 for race and ethnicity data and table #B17017 for low-income households. A template table is provided below.

- b) Identification of environmental justice populations by block group, using the data obtained in response to part a above, by applying the following methods

² 59 Fed Reg. 7,629-7,633 (February 16, 1994).

³ To calculate the percent total minority population, subtract the percentage of "White Alone Not Hispanic" from 100% for any given area.

⁴ To calculate percentage of total population below poverty level, divide the total households below the poverty level by the total number of households and multiply by 100.

included in EPA's *Promising Practices for EJ Methodologies in NEPA Reviews* (2016).⁵

- i. To identify environmental justice communities based on the presence of minority populations, use the "50 percent" and the "meaningfully greater" analysis methods. To use the "50 percent" analysis method, determine whether the total percent minority population of any block group in the affected area exceeds 50%. To use the "meaningfully greater" analysis determine whether any affected block group affected is 10% greater than the minority population percent in the county using the following process:
 1. Calculate the percent minority in the reference population (county)
 2. To the reference population's percent minority, add 10% (i.e., multiply the percent minority in the reference population by 1.1)
 3. This new percentage is the threshold that a block group's percent minority would need to exceed to qualify as an environmental justice community under the meaningfully greater analysis method.

- ii. To identify environmental justice communities based on the presence of low-income populations, use the "low-income threshold criteria" method. To use the "low income threshold criteria," the percent of the population below the poverty level in the identified block group must be equal to or greater than that of the reference population (county).

- c) A map showing the project boundary and location(s) of any project-related construction in relation to any identified environmental justice communities within the geographic scope. Denote on the map if the block group is identified as an environmental justice community based on the presence of minority population, low-income population, or both.

- d) A discussion of anticipated project-related impacts on any environmental justice communities for all resources where there is a potential nexus between the effect and the environmental justice community. Examples of resource impacts may include, but are not necessarily limited to, project-related effects on: erosion or sedimentation of private properties; groundwater or other drinking water

⁵ Available online at https://www.epa.gov/sites/default/files/2016-08/documents/nepa_promising_practices_document_2016.pdf

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sources; subsistence fishing, hunting, or plant gathering; access for recreation; housing or industries of importance to environmental justice communities; and construction-or operation-related air quality, noise, and traffic. For any identified effects, please also describe whether or not any of the effects would be disproportionately high and adverse.

- e) If environmental justice communities are present, please provide a description of your public outreach efforts regarding your project, including:
 - i. a summary of any outreach to environmental justice communities conducted prior to filing the application (include the date, time, and location of any public meetings beyond those required by the regulations);
 - ii. a summary of comments received from members of environmental justice communities or organizations representing the communities;
 - iii. a description of information provided to environmental justice communities; and
 - iv. planned future outreach activities and methods specific to working with the identified communities.

- f) A description of any mitigation measures proposed to avoid and/or minimize project effects on environmental justice communities.

- g) Identification of any non-English speaking groups, within the geographic scope of analysis, that would be affected by the project (regardless of whether the group is part of an identified environmental justice community). Please describe your previous or planned efforts to identify and communicate with non-English speaking groups and identify and describe any measures that you propose to avoid and minimize any project-related effects on these communities.

- h) Identification of sensitive receptor locations (e.g., schools, day care centers, hospitals, etc.) within the geographic scope of analysis. Show these locations on the map generated in step c. Provide a table that includes their distances from project facilities and any project-related effects on these locations, including measures taken to avoid or minimize project-related effects.

When you file your response with the Commission, please include documentation of any consultation you conducted with entities that expressed interest in environmental justice, copies of their comments, and an explanation of how you have addressed their comments in your final response.

Environmental Justice Data Table Template

	RACE AND ETHNICITY DATA										LOW-INCOME DATA
Geography	Total Population (count)	White Alone Not Hispanic (count)	African American (count)	Native American/ Alaska Native (count)	Asian (count)	Native Hawaiian & Other Pacific Islander (count)	Some Other Race (count)	Two or More Races (count)	Hispanic or Latino (count)	Total Minority (%)	Below Poverty Level (%)
State											
County or Parish											
Census Tract X, Block Group X											