

**VIA ELECTRONIC FILING**

March 11, 2024

DEBBIE-ANNE A. REESE
ACTING SECRETARY
FEDERAL ENERGY REGULATORY COMMISSION
888 FIRST STREET NE
WASHINGTON, D.C. 20426**Re: FERC request regarding the schedule for Section 401 water quality certification and CZMA consistency certification to decommission the Newhalem Creek Hydroelectric Project (P-2705-037)**

Dear Acting Secretary Reese,

Seattle City Light (City Light) hereby responds to the Federal Energy Regulatory Commission's (FERC) request issued on February 23, 2024, related to the proposed license surrender and decommissioning of the Newhalem Creek Hydroelectric Project, FERC Project No. 2705 (Project). FERC requested an update on the status and timeframe for when a decommissioning plan will be more clearly defined for the purpose of requesting a Water Quality Certification (WQC) under section 401(a)(1) of the Clean Water Act¹ and a consistency determination (CD) under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA).²

In response to FERC's similar request last year (February 10, 2023), City Light responded on April 10, 2023, that the requests for WQC and CD will be submitted following additional engagement with federal and state resource agencies on the scope of the proposed decommissioning and once 60% design drawings have been developed.

Since the April 10, 2023 filing, City Light has been actively engaged with federal and state resource agencies and Tribes regarding various elements of the Project to define the scope of decommissioning. These actions include engaging with staff at the National Park Service (NPS), the federal agency that manages the land within much of the FERC Project Boundary, to collaboratively finalize the geomorphology report. The resulting updated report was filed with FERC on October 23, 2023. Additionally, City Light has been consulting with parties pursuant to Section 106 of the National Historic Preservation Act³, including distribution of the Historic Built Environment Report to which the Department of Archaeology and Historic Preservation concurred on February 20, 2024. City Light has

¹33 U.S.C. § 1341(a)(1) (2018).

²16 U.S.C. § 1456.

³54 U.S.C. § 306108.

also reached out to the Section 106 consulting Tribes requesting information on potential effects of the decommissioning on their Traditional Cultural Properties (TCPs), and further, City Light will be distributing an archaeology report by the end of March that summarizes findings of the archaeological survey. City Light has also met with, and continues to coordinate with, the NPS and Upper Skagit Indian Tribe regarding their objectives for decommissioning the dam access road. This includes several meetings and a site visit planned for March 22, 2024.

City Light has a strong economic interest in commencing with Project design and submitting permit applications as soon as possible. However, it is premature to proceed with design at this time because there are two alternatives under analysis. For this reason, City Light looks forward to FERC's issuance of the Environmental Assessment (EA) in accordance with the National Environmental Policy Act to facilitate selection of an alternative. City Light will also continue to consult with the Section 106 parties to understand potential effects of decommissioning on cultural resources and to further define the scope of the proposed action.

In response to FERC's request for a timeframe to request a WQC and CD, a relative schedule is provided below. In Washington State, the WQC is typically tied to the submission of a Section 404 permit application with the Army Corps of Engineers (ACOE) when there is a discharge of dredged or fill materials to a Water of the United States, such as with the proposed decommissioning. In fact, the Section 404 permit application, which is titled the Joint Aquatic Resources Permit Application (JARPA), is submitted with the Request for WCD to the Department of Ecology (Ecology). Both the JARPA and Request for WCD require Project drawings; City Light may be able to submit the permit applications at 30% design if there is enough detail and confidence that the scope of decommissioning will not change. However, the ACOE requested no further engagement until Project details were available, and Ecology informed City Light that it should postpone submission of the WCD and CD applications until the proposed action for decommissioning is more clearly defined (see City Light's April 10, 2023 filing). Based on these considerations and the phase of the proceeding, the following provides a relative schedule for obtaining the WCD and CD:

- 1) Scope definition achieved through the actions of multiple parties:
 - a) Determination of effects to cultural resources via Section 106 consultation
 - b) Selection of an alternative facilitated by FERC's EA

Once the scope of decommissioning is finalized, the following City Light actions would occur:

- 2) Begin 30% design
- 3) Pre-application meeting with the ACOE and Ecology
- 4) Submit a Pre-filing Request Form to Ecology 30 days prior to requesting a WQC
- 5) Finalize 30% design
- 6) Prepare JARPA for the Section 404 permit, including Project drawings
- 7) Prepare Request for WCD, including Project drawings
- 8) Submit JARPA to ACOE; submit JARPA, Request for WCD, and CZM Form to Ecology

As City Light indicated in the April 10, 2023 filing, a copy of the requests for WCD and CD will be filed with FERC once submitted to Ecology. If you have any questions, please feel free to contact me at (206) 684-3117. City Light looks forward to continuing to work with FERC and the other parties to surrender the license and decommission the Project facility.

Sincerely,



Shelly Adams
Decommissioning Project Manager
Seattle City Light

Attachment

Cc: Diana Shannon, FERC
Mark Ivy, FERC

Document Content(s)

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