

**VIA ELECTRONIC FILING**

April 7, 2023

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

Dear Secretary Bose,

Seattle City Light (City Light) hereby responds to the Federal Energy Regulatory Commission's (FERC) request issued on February 10, 2023, related to the proposed license surrender and decommissioning of the Newhalem Creek Hydroelectric Project, FERC Project No. 2705 (Project). FERC's request concerned certain requirements under section 401(a)(1) of the Clean Water Act<sup>1</sup> and section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA)<sup>2</sup> related to decommissioning the Project.

In response to FERC's letter, City Light consulted with Washington Department of Ecology (Ecology) on March 2, 2023 regarding the timing of Project requests for 401 certification and the CZMA federal consistency decision. Although FERC requested that City Light file the 401 application, request, or waiver for certification within 60 days of FERC's letter, City Light has not requested either the section 401 or CZMA federal consistency decision and a waiver will not apply to the Project. Ecology agrees that a waiver does not apply, and that City Light should postpone submission of these applications until the proposed action for decommissioning the Project is more clearly defined. City Light anticipates that it will request these certifications following additional engagement with federal and state resource agencies and once 60% design drawings have been developed, which coincides with scoping definition. City Light appreciates FERC's recommendation to apply for the Section 401 water quality certification in accordance with 40 CFR § 121.5(b) and will send the request to FERC concurrently, as well as any responses received from Ecology. Additionally, City Light will submit a CZMA federal consistency request to Ecology with a copy to FERC after the section 401 request has been submitted.

Additionally, Ecology has clarified that the subject certifications must be obtained *before* FERC can issue the Order to decommission the Project; obtaining these certifications *as a condition* in the Order is not

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<sup>1</sup>33 U.S.C. § 1341(a)(1) (2018).

<sup>2</sup>16 U.S.C. § 1456.

consistent with Section 401 of the Clean Water Act or the Coastal Zone Management Act. . Ecology has reviewed this letter; their emailed concurrence is attached to this filing.

If you have any questions, please feel free to contact me at (206) 386-4571, or the Decommissioning Project Manager, Shelly Adams, at (206) 684-3117. City Light looks forward to continuing to work with FERC and other parties to surrender the license and decommission the Project facility.

Sincerely,



[Chris Townsend \(Apr 7, 2023 12:54 PDT\)](#)

Chris Townsend  
Director Natural Resources & Hydro Licensing  
Seattle City Light

Attachment

Cc: Diana Shannon, FERC  
Mark Ivy, FERC

**From:** [Randall, Loree" \(ECY\)](#)  
**To:** [Adams, Shelly](#)  
**Cc:** [ECY RE FED PERMITS \(SEA\)](#)  
**Subject:** SCL Response to FERC 021023 Request: Newhalem Creek Hydroelectric Project  
**Date:** Friday, April 7, 2023 9:10:06 AM  
**Attachments:** [image001.png](#)  
[SCL Response to FERC 021023 Request final.docx](#)  
**Importance:** High

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**CAUTION: External Email**

Hi Shelly,

Ecology appreciated the opportunity to review your response back to FERC regarding the Newhalem Creek Hydroelectric project. As the letter indicates Ecology agrees that it is too early for Seattle City Light to submit a request for a Section 401 and/or CZM Federal Consistency. Also, the letter correctly reflects Ecology position that FERC cannot issue an Order prior to Ecology's Section 401 and CZM decisions. We look forward to getting the Section 401 and CZM Federal Consistency requests when the project is more clearly defined. Please don't hesitate to contact me if you have any other question.

Thanks

Loree' Randall

Department of Ecology

Section 401/CZM Federal Consistency Policy Lead

360-485-2796

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**From:** Adams, Shelly <[Shelly.Adams@seattle.gov](mailto:Shelly.Adams@seattle.gov)>  
**Sent:** Thursday, April 6, 2023 3:43 PM  
**To:** Randall, Loree' (ECY) <[lora461@ECY.WA.GOV](mailto:lora461@ECY.WA.GOV)>  
**Subject:** SCL Response to FERC 021023 Request: Newhalem Creek Hydroelectric Project

Hi Loree,

It has been a pleasure meeting you and working with you to better understand the section 401 and CZMA processes as they relate to decommissioning the Newhalem Creek Hydroelectric Project. Please find Seattle City Light's attached response to FERC's February 10, 2023 request regarding the timing of requests for section 401 certification and the CZMA federal consistency decision. If you find our response satisfactory, could you please respond with concurrence? We will then attach the response with our letter to FERC.

Sincerely,

Shelly

**SHELLY ADAMS**

**DECOMMISSIONING PROJECT MANAGER**

**NEWHALEM CREEK HYDROELECTRIC PROJECT | ENVIRONMENTAL, LAND, AND LICENSING BUSINESS UNIT**

 **Seattle City Light**

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We Power Seattle [seattle.gov/city-light](http://seattle.gov/city-light)