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July 1, 2022

KIMBERLY D. BOSE, SECRETARY
FEDERAL ENERGY REGULATORY COMMISSION
888 1ST STREET NE, SUITE 1A
WASHINGTON D.C., 20426

**Re: Response to Comments from Notice of Application for Surrender of License, Soliciting Comments, Motions to Intervene, and Protests (Docket No. 2705-037)
Newhalem Creek Hydroelectric Project No. 2705**

Dear Ms. Bose,

On January 28, 2022, Seattle City Light (City Light) filed an Application for Surrender of License for the Newhalem Creek Hydroelectric Project (Project) and Decommissioning Plan with the Federal Energy Regulatory Commission (FERC). On April 29, 2022, FERC issued a Notice of Application for Surrender of License, Soliciting Comments, Motions to Intervene, and Protests, along with a Notice of Existing Licensee's Intent not to File a New License Application. Eight parties ("Parties") filed comments on the Application and/or Motions to Intervene on or before May 31, 2022.

While all Parties support City Light in surrendering the Project license, certain comments raise concerns about City Light's proposed approach to decommissioning. City Light appreciates the comments and the opportunity to respond; responses are attached. City Light's objective is to decommission the Project in a manner that best balances preserving historic properties and other cultural resources with 1) restoring terrestrial and aquatic habitats and 2) providing interpretive opportunities.

City Light's decommissioning proposal reflects the fact that hydropower is an important part of the continuum of history and human culture in the Ross Lake National Recreation Area (RLNRA). As the first hydroelectric project in the Skagit Basin and the powerplant that enabled the construction of the Skagit River Hydroelectric Project, the Newhalem powerhouse and penstock hold a unique place in the history of the upper Skagit River valley, the City of Seattle, and the establishment of the North Cascades National Park (Park) and RLNRA. When establishing the RLNRA on October 2, 1968, Congress emphasized the importance of the hydroelectric developments when defining its purpose of the RLNRA to *"complement North Cascades National Park and conserve the scenic, natural, and cultural values of the Upper Skagit River Valley and surrounding wilderness, including the hydroelectric reservoirs and associated developments, for outdoor recreation and education."*

City Light's decommissioning proposal is not only consistent with the RLNRA General Management Plan (GMP), but best accomplishes the goal of the GMP to *"achieve optimal balance between resource protection and visitor use."* The preferred alternative balances natural resource restoration, historic



resource preservation, and tribal cultural resource protection by completely restoring the aquatic habitat, natural fluvial geomorphology, aesthetics, and pre-project cultural setting of Newhalem Creek and all but 0.16 acres of terrestrial habitat. While the proposal does include removal of some inaccessible historic properties, it retains the penstock and powerhouse on the reserved 0.16 acres, which are the two features most visible to the public. In fact, these two historic properties are within an interconnected, 1-mile recreational corridor and are a focal point where two trails from Newhalem and the Newhalem Creek Campground meet. This interconnected recreational corridor includes 5 other NPS-designated trails, as well as the Newhalem Creek Campground and the NPS North Cascades Visitor Center. The corridor provides educational and interpretative opportunities covering the full, complex history of the land, from ancestral Tribal use exhibited along the Rock Shelter Trail, to the beginnings of the region's hydropower interpreted at the Newhalem powerhouse, to current management as a National Recreation Area explained at the North Cascades Visitor Center. The historic properties proposed to be retained are in the Front Country management zone, which the GMP defines as having the highest level of development to provide *"a wide variety of high quality recreational and educational visitor opportunities and facilities"* for a range of visitor abilities. Historic structures in this zone are to be protected, maintained, and functional through established use or adaptive reuse, and, to the extent possible, be visually accessible and interpreted to the public.

As explained in our responses to comments, the full removal alternative does not achieve the goal of the GMP - to balance resource protection and visitor use - as it eliminates widely visited, easily accessible and interpreted historic properties that are listed in the National Register of Historic Places within an existing recreational corridor, in order to restore a small fraction (0.16 acres) of the total area proposed for restoration (2.94 acres). Further, full removal is incompatible with the objectives, management prescriptions, and Desired Conditions outlined in the RLNRA GMP, as well as the purpose and intent of Congress when creating the RLNRA, and the NPS's own Management Policies. City Light further explains its rationale in its response to Comment #2 in the attachment.

City Light is dedicated to working with the NPS and other interested Parties toward a surrender proposal that can be supported by all. As a next step, City Light will continue with consultation as FERC's nonfederal representative for Section 106 of the National Historic Preservation Act and the Endangered Species Act. We also plan to meet with interested Parties to better understand their comments and concerns and work to resolve areas of disagreement. City Light will update FERC regularly on the results of this coordination. Should you have any questions, please contact me at 206-386-4571 or the Project Manager, Shelly Adams, at (206) 684-3117.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Townsend".

Chris Townsend (Jul 1, 2022 09:45 PDT)

Chris Townsend
Director Natural Resources & Hydro Licensing
Seattle City Light

Attachment



Seattle City Light

Cc: David Turner, FERC
Diana Shannon, FERC
Mark Ivy, FERC

Response to Intervenor Comments From FERC Notice of Surrender Application

#	Party	Full Comment	Formal Response
1	NPS	<p>We are committed to conserving both natural and cultural resources. While the NPS conserves both natural and cultural resources, the NPS sees as more important the preservation and interpretation of the continuum of history and human culture in Ross Lake National Recreation Area than that proposed by SCL with its narrower focus on hydropower development in the area.</p>	<p>City Light's focus on the history of hydropower in the context of this application is warranted because the project itself is to remove a source of hydropower. The region has been engaged in hydropower for most of its time in the historic era, decades before it became a National Recreation Area, so the importance of hydropower as a driving force in the historical development of the region is worthy of preservation and interpretation. We recognize that the length of our presence (and the National Park Service (NPS)) on this landscape is short compared to that of affected Tribes. But the preservation and interpretation of the "continuum of history and human culture" also includes City Light's presence in the Ross Lake National Recreation Area (RLNRA) in general and at Newhalem Creek specifically. These significant and finite historic resources represent the earliest history of City Light's hydropower presence, which has shaped the historical and modern development of the entire RLNRA.</p> <p>The NPS's RLNRA General Management Plan (GMP) highlights the importance of hydropower by establishing a "Hydroelectric Zone" around the powerhouse and noting that "<i>Seattle City Light Operations are paramount to resource conditions and visitor experience in this zone</i>" (RLNRA GMP, page ix). Furthermore, the GMP mandates that within the Frontcountry Zone, which encompasses the area outside of the powerhouse, "<i>Historic structures will be maintained and functional through established use or adaptive reuse. To the extent possible, cultural resources will be visually accessible and interpreted to the public...</i>" (RLNRA GMP page 64). The GMP also recognizes the importance of the Newhalem Creek project in its study for Wild and Scenic River designation that cites the project as one of the outstandingly remarkable values of the creek (page 150). We understand that the NPS has a broad interpretive mandate, but City Light's presence in the RLNRA in general and at Newhalem Creek specifically is a very important part of that mandate.</p>
2	NPS	<p>SCL has not addressed many of our most important comments or collaborated with us to modify the plan. As a result, we find the application and plan inadequate. Specifically, the plan does not restore NPS lands occupied by the project to a condition that is satisfactory to the NPS.</p>	<p>During the period from when the Notice of Intent was filed with FERC on April 28, 2021, and when the Surrender Application was filed on January 28, 2022, City Light coordinated extensively with the NPS to develop the preferred alternative. This included providing three presentations to NPS staff, one site visit, a draft project description and a draft Surrender Application, the latter two of which comments were solicited. In our Response to Comments included in the Surrender Application, City Light provided thorough, thoughtful responses to each comment and suggestion, and adjusted the project description to the extent possible. If suggestions were not incorporated into the project description, it is because there are fundamental disagreements regarding the nature and scope of the impacts and the objectives of decommissioning.</p>

#	Party	Full Comment	Formal Response
			<p>City Light's objective is to decommission the project in a manner that best balances preservation of historic properties and other cultural resources with restoration of terrestrial and aquatic habitats and provision of interpretive opportunities. City Light finds that the NPS' request for the full removal of listed historic properties, representing the first public hydropower project in the upper Skagit River valley, is inconsistent with congressional legislation enabling the RLNRA, and contradicts Congress' purpose and intent for the RLNRA. City Light also finds that the request for full removal is incompatible with the objectives, management prescriptions, and Desired Conditions clearly outlined in the RLNRA General Management Plan (GMP). Lastly, the request for full removal is not aligned with various laws and policies that the NPS is responsible for administering.</p> <p>Congressional legislation, purpose, and intent of the RLNRA</p> <p>The RLNRA was established by Congress on October 2, 1968 “[i]n order to provide for the public outdoor recreation use and enjoyment of portions of the Skagit River and Ross, Diablo, and Gorge Lakes, together with the surrounding lands, and for the conservation of the scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters....” Pub. L. No. 90-544, 82 Stat. 926 (1968).</p> <ul style="list-style-type: none"> • Removing the powerhouse and penstock contradicts the intent of Congress by removing not only historic properties listed in the National Register of Historic Places (NRHP) but also removing all traces of the first hydropower project that formed the basis of the enabling legislation. The powerhouse and penstock are visited often, and their interpretive aspects are enjoyed by the public. The intent of this enabling legislation was not to create an unblemished wilderness, but to celebrate the broad spectrum of history and beauty that defines the land. <p>The purpose of the RLNRA is to “<i>complement North Cascades National Park and conserve the scenic, natural, and cultural values of the Upper Skagit River Valley and surrounding wilderness, including the hydroelectric reservoirs and associated developments, for outdoor recreation and education.</i>”</p> <ul style="list-style-type: none"> • Removal of the powerhouse and penstock contradicts the purpose of the RLNRA by removing cultural resources associated with hydroelectric development that provide outdoor recreation and education. Adverse effects to Tribal cultural resources might be mitigated by removing the powerhouse and penstock, but such an action would eliminate a historic cultural resource listed in the NRHP. Thus, the preferred alternative provides

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			<p>balance by removing remote, inaccessible, historic features on Newhalem Creek to restore pre-project cultural aesthetics but keeping easily accessible historic properties that are rich in context and history and located in a highly developed recreational corridor.</p> <p>RLNRA General Management Plan</p> <p>The NPS requires City Light to comply with the RLNRA General Management Plan (GMP) on project proposals. Thus, the preferred alternative was developed to be consistent with the management prescriptions and goal of the GMP, the latter of which is to <i>“achiev[e] an optimal balance between resource protection and visitor use and enjoyment.”</i> The preferred alternative balances preservation of historic properties and protection of cultural resources with restoration of terrestrial and aquatic habitats and provision of interpretive opportunities. This is achieved by keeping accessible historic properties that are rich in context and history and removing inaccessible historic properties in favor of restoring aquatic habitat and the pre-project cultural setting. All but 0.16 acres of 2.94 acres would be restored to allow for recreational, educational, and interpretive opportunities associated with the powerhouse and penstock.</p> <p>The following provides relevant sections of the GMP where there is considerable divergence between the full removal alternative and the GMP.</p> <p><u>Desired Conditions for Historic Structures</u></p> <p>Desired Conditions for Historic Structures in the RLNRA under the GMP include protecting <i>“the qualities that contribute to the listing or eligibility for listing of historic structures on the National Register... in accordance with the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation, unless it is determined through a formal process that disturbance or natural deterioration is unavoidable.”</i> The GMP describes potential management strategies to achieve this desired condition, including to <i>“consider frontcountry historic structures not actively being used in Ross Lake NRA for adaptive reuse by other public and private entities to assist in preservation of the structures.”</i></p> <ul style="list-style-type: none"> • Adverse impacts to the powerhouse and penstock in the front country zone are avoidable under the preferred alternative; City Light is a willing partner to take on the long-term responsibility and maintenance of the two historic structures.

Front Country Management Zone

As described in the GMP, the Front Country Zone has the highest level of development. The focus for the Front Country is to provide a *"wide variety of day-use and overnight recreational opportunities... for a range of visitor abilities."*

- Alternative B, the full removal alternative, would eliminate the Newhalem Powerhouse, an existing day-use recreational opportunity that is widely used and enjoyed by the public. With the relatively short, flat trail from either the town of Newhalem or the Newhalem Campground, and even vehicular access, the powerhouse provides easy access for a range of visitor abilities unlike many of the steep, remote recreational opportunities in the RLNRA.

North Cascades Highway Corridor

One of the two major focuses of the GMP is to provide *"enhanced visitor opportunities"* in the North Cascades Highway Corridor, to get people out of the car and explore. Along this corridor, the *"NPS will work to provide activities to entice people out of their vehicles via enhanced overlooks, the existing visitor center, and visitor facilities in partnership with SCL and the NCI. Once out of their vehicles, the NPS and partners will provide opportunities for enjoyment and learning, such as ranger-led tours, Diablo Lake tours, and numerous hiking trails."* The GMP further provides that *"[t]he NPS will provide improved day-use opportunities along the North Cascades Highway, such as dayhiking, water recreation, and increased interpretive, educational, and hands-on stewardship experiences for visitors with a range of abilities and interests who desire a variety of recreational activities."* In addition, the GMP provides that *"Newhalem will serve as a destination and hub of activity and will provide the starting point to a network of ranger-led and self-directed resource immersion activities... The long-term vision for Newhalem is to make it a primary destination and starting point for visitors who are travelling into the North Cascades wilderness. The NPS will seek to use the existing facilities and infrastructure in Newhalem more effectively to provide a more comprehensive experience for visitors."*

- The powerhouse is 1/4-mile from the North Cascades Highway, and 1/3-mile along the Trail of Cedars, providing direct access from Newhalem, which according to the GMP is the *"hub"* and *"starting point"* for *"ranger-led and self-directed resource immersion activities"*. City Light is proposing to incorporate the powerhouse into the existing tour program, beginning at the Newhalem Visitor Center, to allow for both guided and self-directed tours.

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			<ul style="list-style-type: none"> <li data-bbox="877 181 1982 743">• The powerhouse and penstock are a focal point at the confluence of two trails within an existing, 1-mile long, interconnected recreational corridor, on the south side of the Skagit River beginning in Newhalem and ending at the NPS Visitor Center (see NPS map below). All facilities within this recreational corridor are approximately ¼-mile from the Highway, minus the NPS Visitor Center which is approximately ½-mile away. These interconnected facilities include 7 NPS designated trails (the Linking Trail, Trail of Cedars, Rock Shelter Trail, River Loop Trail, To Know A Tree Trail, Sterling Munro Boardwalk, and Lower Newhalem Creek Trail), the Newhalem Campground, and the NPS North Cascades Visitor Center. Visitors can walk between all these facilities and into Newhalem. This interconnected recreational corridor provides educational and interpretative opportunities covering the full, complex history of the land, from ancestral Tribal use described along the Rock Shelter Trail, to the beginnings of the region’s hydropower exhibited at the powerhouse, to current management as a National Recreation Area provided at the North Cascades Visitor Center. Natural resources are also interpreted along many of the trails and at the NPS Visitor Center. <li data-bbox="974 799 1982 1052">○ Seattle City Light has been on the land since 1920 and is an integral part of the Park’s history and provides distinct character. As the GMP states <i>“The establishment of North Cascades NP Complex is a chronicle of the conflict between those who loved the land and extracted its resources and those who loved the land and wanted to preserve its wildness for future generations. From the time the first park proposals appeared in the 1890s until the park was actually created in 1968, the North Cascades have been contested terrain.”</i> <li data-bbox="877 1107 1982 1247">• It is incompatible with the recreational, educational, and interpretive goals outlined in the GMP for the North Cascades Highway Corridor to remove a listed historic property that plays such an important role in the complex history of the land, particularly in this widely used and accessible recreational corridor.



Photo 1. An NPS sign by the powerhouse depicting the powerhouse within an existing 1-mile recreational corridor that is part of a “network of easy trails... designed with accessibility in mind.”

Recreation

Pursuant to the GMP, recreation in the RLNRA is managed by providing for “a mix of recreational activities and resource-focused activities while minimizing impacts through education and the use of defined high use areas.” Opportunities are provided “along the North Cascades Highway corridor for visitors with a wide range of interests and abilities... such as... increased interpretive services.”

- The full removal alternative would eliminate 1 of the 9 recreational and interpretive resources in the high-use, 1-mile recreational corridor between Newhalem and the NPS Visitor Center (see Photo 1). With its history and ease of access, the powerhouse and penstock provide for a wide range of visitor interests and abilities.

#	Party	Full Comment	Formal Response
			<p data-bbox="825 175 1052 204"><u>Cultural Resources</u></p> <p data-bbox="825 237 1976 496">The GMP states that “<i>cultural resources, including archeology, historic structures, cultural landscapes, ethnohistory, and museum collections, will be ensured long-term stewardship and preservation through a variety of measures. The NPS will continue identification, documentation, and research programs to learn more about human history in the North Cascades in all program areas, including archeology, collections, historic structures, cultural landscapes, and ethnohistory. The NPS will also seek to expand opportunities for sharing information about cultural resources through interpretive and educational media and programs.</i>”</p> <ul data-bbox="873 529 1986 984" style="list-style-type: none"> <li data-bbox="873 529 1986 821">• The full removal alternative would eliminate historic properties listed in the NRHP that have important historical context relevant to the RLNRA, as it is the first public hydropower project in the region. The preferred alternative, on the other hand, balances preservation of historic properties and protection of tribal cultural resources with restoration of terrestrial and aquatic habitats and provision of interpretive opportunities. This is achieved by keeping accessible historic properties that are rich in context and removing inaccessible historic properties in favor of restoring aquatic habitat and the pre-project cultural setting. <li data-bbox="873 837 1986 984">• The preferred alternative expands opportunities for sharing information about cultural resources through interpretation and education by enhancing existing interpretation opportunities at the facility and incorporating the facility into the well-established City Light tour program. <p data-bbox="825 1016 1052 1045"><u>Historic Resources</u></p> <p data-bbox="825 1078 1986 1292">As provided above, the GMP states that “<i>cultural resources, including archaeology, historic structures, cultural landscapes, ethnohistory, and museum collections will be ensured long-term stewardship and preservation...</i>” Further, the NPS will “<i>treat historic structures according to management preservation decisions</i>” and will “<i>develop interpretive opportunities emphasizing the development and utilization of significant historic structures, such as distinguishing trapping, recreation, and mining sites.</i>”</p> <ul data-bbox="873 1325 1986 1430" style="list-style-type: none"> <li data-bbox="873 1325 1986 1430">• The full removal alternative would eliminate historic properties listed in the NRHP that have important historical context relevant to the RLNRA and that provide interpretive opportunities. The preferred alternative will follow management preservation guidelines

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			<p>including NPS Management Policies and the Secretary of the Interior's Standards for the Treatment of Historic Properties.</p> <p><u>Interpretation and Education</u></p> <p>The GMP provides that <i>“Ross Lake NRA will be a platform and classroom for education about the resources and history of North Cascades ecosystem,”</i> providing <i>“structured and unstructured activities, including self-guided exploration, discovery, and fun... focused in the Frontcountry Zone.”</i> It further provides that <i>“The NPS will develop, conduct, and evaluate interpretive and educational programs”</i> and <i>“will work with partners, including NCI and SCL [City Light], to develop, deliver, and evaluate the programs so that they convey a broad range of interpretive themes.”</i> Finally, the GMP provides that <i>“[t]he NPS will develop a more collaborative relationship with Seattle City Light to introduce visitors to the variety of activities and information available in the area and ensure visitors receive consistent information and messages, which could include developing additional programming and exhibits that tell about the history and operations of hydropower and the Skagit Project.”</i></p> <ul style="list-style-type: none"> • The Newhalem Powerhouse has four interpretive signs in front of all three windows, with specialized interior lighting that illuminates the double Pelton wheel generating units, allowing visitors to view the equipment at all times of the day. The preferred alternative will improve and expand upon the existing interpretation at this facility, including updating the signage, allowing guided tours inside the facility, and updating the viewing platform with interpretive signage on the penstock behind the powerhouse. • The GMP makes clear that exhibits describing the history and operations of hydropower are an important and relevant interpretive resource, and that the NPS looks to City Light as a partner to provide these opportunities in the same fashion as what is being proposed under the preferred alternative. • The full removal alternative would eliminate an existing interpretive opportunity in a widely used recreational corridor within the front country and would not allow for enhanced interpretive experiences. <p><u>Wild and Scenic River Study</u></p> <p>The GMP includes a study evaluating the eligibility and suitability of the Skagit River from Gorge Dam to the Ross Lake NRA boundary and its associated tributaries to be included in the Wild and Scenic River (WSR) system. The study includes an assessment of each tributary’s outstandingly remarkable river values. In its evaluation of Newhalem Creek, the NPS included the Newhalem</p>

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			<p>Creek Powerhouse and Dam as outstandingly remarkable values: <i>“The Skagit River and Newhalem Creek Hydroelectric Projects Historic Districts are river-dependent and nationally significant. Newhalem Creek Dam and Powerhouse was the first hydroelectric project constructed in the upper watershed and is an important contributing factor to the nationally unique historic district.”</i></p> <ul style="list-style-type: none"> • The GMP and WSR study clearly recognizes the significance of the historic properties associated with the Newhalem Creek Hydroelectric Project, notably, the powerhouse. • The full removal alternative would eliminate all of the historical elements that the NPS cited as outstandingly remarkable values for Newhalem Creek’s WSR designation. <p>NPS Laws and Policies</p> <p>The preferred alternative aligns with the NPS’ responsibilities to comply with various laws and policies. These include the National Park Service Organic Act; Executive Order 11593 “Protection and Enhancement of the Cultural Environment;” and the National Historic Preservation Act of 1966, as amended and its procedural documents including the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation. All of these regulations highlight the importance of preservation as the standard by which historic structures are treated. NPS also has specific Management Policies (see NPS Management Policies 2006 § 5.3.5.4) that call for the treatment of historic structures to be based on sound preservation practice to enable the long-term preservation of a structure’s historic features, materials, and qualities. Also, NPS’s Director’s Order #28 (Cultural Resource Management) specifically addresses the way in which NPS shall manage its cultural resources.</p> <p><u>The 1916 Organic Act</u></p> <p>The purpose of the NPS Organic Act was to <i>“conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”</i></p> <ul style="list-style-type: none"> • The preferred alternative best preserves historic objects in the park while also conserving scenery and wildlife. It enhances the natural setting of the remote portions of the project area while leaving the highly-visited, historic objects in the recreational corridor unimpaired. In fact, all but 0.16 acres of the total 2.94 acres would be restored to allow for the continued interpretive use of the powerhouse and penstock.

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			<ul style="list-style-type: none"> • The full removal alternative removes historic properties that are listed in the NRHP, currently enjoyed by the public, and integral to the RLNRA’s history. Removal would prevent future generations from enjoyment. <p><u>Executive Order 11593</u></p> <p>Executive Order 11593, issued by President Nixon in 1971, directed the federal government to “provide leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation” through administration of “the cultural properties under their control in a spirit of stewardship and trusteeship for future generations,” initiation of “measures necessary to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, architectural or archaeological significance are preserved, restored, and maintained for the inspiration and benefit of the people,” and institution of “procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural or archaeological significance.”</p> <ul style="list-style-type: none"> • The preferred alternative highlights preservation, stewardship, and maintenance of the portion of the historic environment that is most likely to inspire and benefit visitors. • The full removal alternative would eliminate historic properties for future generations that have important historical context relevant to the RLNRA, whereas the preferred alternative balances preservation of historic properties and protection of tribal cultural resources. This is achieved by keeping accessible historic properties that are rich in context and history, within the existing recreational corridor, and removing inaccessible historic properties to restore the pre-project cultural setting of Newhalem Creek. <p><u>National Historic Preservation Act</u></p> <p>The National Historic Preservation Act of 1966, as amended has become the primary way in which federal agencies consider and protect important cultural resources. The NHPA was enacted partly because “the preservation of [the Nation’s] irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans.” Pub. L. No. 89-665, 80 Stat. 915 (1966). Furthermore, the NHPA stipulated that it is the policy of federal agencies to “provide leadership in the preservation of the historic property of the United States..., administer federally owned, administered, or controlled historic property in a spirit of stewardship for the inspiration and benefit of present and future generations..., contribute the preservation of non-federally owned historic property and give maximum encouragement to organizations and individuals</p>

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			<p data-bbox="825 175 1995 435"><i>undertaking preservation by private means...[and] encourage the public and private preservation and utilization of all usable elements of the Nation’s historic built environment...” 54 U.S.C. § 300101. In addition, the Secretary of the Interior Standards and Guidelines for Archeology and Historic Preservation rely on the principle that “important historic properties cannot be replaced if they are destroyed. Preservation planning provides for conservative use of these properties, preserving them in place and avoiding harm when possible and altering or destroying properties only when necessary.”</i></p> <ul data-bbox="873 467 1984 885" style="list-style-type: none"> <li data-bbox="873 467 1984 613">• The full removal alternative does not emphasize preservation of historic properties in place, specifically those historic properties that are most likely to be visited by the public, and does not preserve historic features so that future generations can be inspired by the unique history of the RLNRA. <li data-bbox="873 621 1984 768">• Consistent with encouraging private preservation and utilization of all usable elements of the Nation’s historic built environment, City Light is a willing partner to take on the long-term responsibility and maintenance of the two historic properties that would be left in place. <li data-bbox="873 776 1984 885">• As the nonfederal representative for FERC, City Light will be continuing consultation with NPS, affected Tribes, and the Department of Archaeology and Historic Preservation (DAHP) pursuant to Section 106 of the NHPA. <p data-bbox="825 914 1402 946"><u>NPS Management Policies 2006 (Section 5.3.5.4)</u></p> <p data-bbox="825 971 1990 1463">The management policies developed by NPS for use throughout its system highlight the cornerstone of the 1916 Organic Act that <i>“the Park Service must leave park resources and values unimpaired unless a particular law directly and specifically provides otherwise”</i> (Section 1.4.4.) and that <i>“NPS managers must always seek ways to avoid, or to minimize to the greatest extent practicable, adverse impacts on park resources and values.”</i> (Section 1.4.3) The management policies further outline what impacts might constitute impairments or adverse effects to park resources: <i>“An impact would be more likely to constitute impairment to the extent that it affects a resource or value whose conservation is: necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park, or key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or identified in the park’s general management plan or other relevant NPS planning documents as being of significance.”</i> (Section 1.4.5) Regarding cultural resources specifically, the Management Policies indicate that the NPS <i>“will provide for the long-term preservation of, public access to, and appreciation of the features,</i></p>

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			<p><i>materials, and qualities contributing to the significance of cultural resources” with the primary goal for structures of preservation in present conditions. (Section 5.3.5)</i></p> <ul style="list-style-type: none"> • The full removal alternative does not leave park resources unimpaired, specifically those historic resources that are frequently visited by the public within an existing recreational corridor. Additionally, the NPS support of full removal is in direct opposition of its mandate to avoid or minimize adverse impacts on park resources. • The preferred alternative is consistent with NPS Management Policies Section 5.3.5 because it provides for the long-term preservation of and public access to significant cultural resources that are identified in the RLNRA GMP, it avoids impacts or impairments to those cultural resources, and it will follow the Secretary of the Interior’s Standards for the Treatment of Historic Properties, as cited in the Management Policies. <p><u>Director’s Order #28/ NPS-28 Cultural Resource Management Guideline</u></p> <p>The NPS created this order and its associated guidelines to supplement the Management Policies described above. The order states that <i>“The National Park Service, as steward of many of America’s most important cultural resources, is charged to preserve them for the enjoyment of present and future generations. Management decisions and activities throughout the National Park System must reflect awareness of the irreplaceable nature of these resources”</i> (Section 1.1). In particular, the guidelines stress the importance of research, planning, and stewardship as core actions to manage these finite and nonrenewable resources. The guidelines recognize that <i>“The physical attributes of cultural resources are, with few exceptions, nonrenewable. Once the historic fabric of a monument is gone, nothing can bring back its authenticity...The primary concern of cultural resource management, therefore, is to minimize the loss or degradation of culturally significant material”</i> (Chapter 1 A.3). In championing stewardship of cultural resources, the guidelines also highlight the 1916 Organic Act’s goal to provide for public enjoyment and stress the power that interpretation of cultural resources has for both preservation and public enjoyment. Chapter 8 of the guidelines specifies the means and methods for managing historic and prehistoric structures and stipulates that <i>“Regardless of type, level of significance, or current function, every structure is to receive full consideration for its historical values whenever a decision is made that might affect its integrity. Historic structures that are central to the legislated purposes of parks, especially those that are to be interpreted, may be subjects of additional, specialized efforts appropriate to their functions and significance”</i> (Chapter 8 A.2). The guidelines</p>

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			<p>also require compliance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.</p> <ul style="list-style-type: none"> • The order and its guidelines repeatedly stress preservation of cultural resources as the primary goal. The full removal alternative is in clear opposition to NPS’s guidelines for management of these finite and nonrenewable resources. The full removal alternative does not consider the historic value of the structures, the public enjoyment associated with those structures, or the designation that the Newhalem Creek Project has in the RLNRA GMP (Title II, Sec. 202). • The preferred alternative preserves those historic structures that provide public enjoyment, minimizes the loss of culturally significant material, and fully considers the historical values of the structures that will be retained. • Because the currently interpreted Newhalem Creek Hydroelectric Project is “<i>central to the legislated purposes</i>” of the RLNRA, the powerhouse and penstock should be considered for “<i>additional, specialized efforts appropriate to their functions and significance.</i>”
3	NPS	We suggest the National Environmental Policy Act (NEPA) analysis identify the complete removal alternative as the preferred alternative.	City Light expects FERC staff to analyze full removal as an alternative in the NEPA document. However, City Light recommends that staff adopt Alternative C as the preferred alternative because it best balances preservation of historic properties and other cultural resources with restoration of terrestrial and aquatic habitats and provision for interpretive opportunities. Although some historic properties would be adversely impacted, it involves only those that are difficult to access, such as the dam and power tunnel. The ecological and cultural benefits with removing the dam and sealing the power tunnel are significant, however, because the project would restore the creek's natural function and pre-project aesthetics. Also, by decommissioning the road, removing the tailrace, and minimizing the footprint of the penstock and powerhouse, much of the project's original footprint will be restored to provide terrestrial habitat and pre-project aesthetics. Only 0.16 acres of the original project footprint would remain to allow for interpretation of the powerhouse and penstock.
4	NPS	We also respectfully request that you initiate consultation under Section 106 of the National Historic Preservation Act to assess the effects the Project may have on historic properties.	City Light is FERC's nonfederal representative for Section 106 consultation. We will be initiating consultation with NPS, DAHP, and other entities in the next few weeks. We look forward to working collaboratively with the NPS on this project.
5	NPS	The current application favors historic preservation. However, preserving the entire hydroelectric infrastructure	Noted.

#	Party	Full Comment	Formal Response
		intact, as noted in Alternative A, “does not meet the purpose and need of decommissioning and was eliminated from further analysis” (pg. E-2).	
6	NPS	Both the remaining alternatives, Alternatives B and C, propose complete or partial removal of components of the Newhalem Hydroelectrical Project causing a potential adverse effect to a historic property, a historic district (DT66), listed in the National Register of Historic Places.	City Light agrees that both Alternatives B and C result in impacts to historic resources, and that we will reach an MOA to address the impacts.
7	NPS	We look forward to collaborating in the Section 106 review process to mitigate the potential adverse effect through development of a Memorandum of Agreement.	Noted.
8	NPS	The NPS acknowledges and supports the Upper Skagit Indian Tribe’s preference for full removal, Alternative B, for a variety of reasons including separate cultural resources and natural resources concerns (Upper Skagit comments on the draft Application of Surrender submitted to SCL September 2021).	As explained above, the preferred alternative best preserves historic properties and protects cultural resources, while also restoring terrestrial and aquatic habitats, and providing for interpretive opportunities. Full removal would eliminate two important historic properties that are widely visited and readily accessible to the public. The goal of the RLNRA GMP is to achieve an optimal balance between resource protection and visitor use and enjoyment. The RLNRA GMP also emphasizes the importance of historic structures in the Front Country zone and prioritizes <i>"adaptive reuse by other public and private entities to assist in preservation of the structures"</i> (page 44).
9	NPS	The NPS recommends further evaluation of the potential adverse effects that SCL’s proposed alternative, Alternative C, would have on the historic district if the property is no longer able to convey its historic character. Such a loss of significance through partial removal of the Project (i.e., the diversion dam, intake structure and power tunnel) could be	The technical memo provided in the application was intended to provide an assessment of the current integrity of the powerhouse and penstock, which are considered significant and are listed in the NRHP. This memo was not intended to be a full evaluation of project effects to historic properties. As part of our Section 106 compliance with the NHPA, we will be hiring a consultant team to conduct a full evaluation of the project which will include an archaeological survey, an evaluation of all buildings and structures, and coordination with affected tribes regarding places of traditional importance. Any project effects to historic properties (i.e., sites, objects, structures, landscapes, etc. that are significant under one of the four criteria of significance and that retain integrity sufficient to convey that significance) will be evaluated, and those effects that are found to be adverse will result in mitigation that will be developed through consultation.

#	Party	Full Comment	Formal Response
		<p>equivalent to removing the entire Project or at the very least support a reason for its removal. The technical memoranda to the Application of Surrender of License (The Historic Structures Technical Memo, Appendix B) evaluated the historic integrity of the Project elements in their current condition only but does not address how the proposed action would affect the integrity of the district overall. Consultation under Section 106 would help address issues associated with the Project’s potential adverse effect on the historic property and the remaining components proposed for preservation. The NPS prefers ecological restoration, Alternative B, and not historic preservation of a select few elements with degraded historic integrity.</p>	<p>Currently, the powerhouse and penstock are contributing elements to the Skagit River and Newhalem Creek Hydroelectric Projects Historic District, which is significant under Criteria A, B, and C. Removing the dam and sealing the power tunnel would not alter that significance. Rather, those actions might result in a loss of integrity to convey significance, which is a topic that will be addressed in forthcoming studies, as discussed above. Both the powerhouse and penstock retain sufficient integrity to convey their significance. Despite changes to the structures over time, their essential physical features enable them to convey their historic identity (see NR Bulletin 15, page 46). Thus, as stated in the memo, replacement of certain physical features (like the saddles or roof) did not diminish the overall integrity of the powerhouse and penstock. Similarly, removal of associated elements (like the power tunnel and diversion dam) may not affect the overall integrity of the remaining historic properties in the District.</p>
10	NPS	<p>If the selected elements were to be retained, remaining elements would require continued historic preservation maintenance of these facilities by an open-ended commitment from SCL and the NPS. In the application, SCL committed to maintain any remaining historic structures “in perpetuity” (p. I-4); however, it is unclear how this would be accomplished. After management of the lands associated with the project are transferred fully to the NPS, it is our understanding the FERC would no longer have jurisdiction to enforce the standards associated with</p>	<p>As stated in the Surrender Application, City Light will assume maintenance responsibility of the penstock and powerhouse in perpetuity. Land associated with the penstock and powerhouse would continue to be owned and managed by the NPS. Because FERC’s authority will end once the project has been decommissioned, a Memorandum of Agreement (MOA) would be established between the NPS and City Light outlining the responsibilities of City Light regarding maintenance of the remaining facilities. City Light anticipates the MOA would have a time frame, with an end date, after of which it would require renewal between the two parties.</p>

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		maintenance activities. The NPS cannot legally enter into agreements or issue permits in perpetuity.	
11	NPS	<p>Additionally, none of the proposed alternatives protect the power tunnel as a contributing element to the historic district. As described in the application, disposal of concrete waste would occur in the shaft of the tunnel, the entrances would be sealed, and the tunnel would be abandoned. Assuming the tunnel shaft is a component of the historic district potentially eligible for National Register of Historic Places listing, the disposal of concrete waste in it may further degrade the historic integrity of the district and sealing its entrance would prevent the ability to conduct condition assessments and historic preservation. Abandonment of historic properties could preclude their preservation; thus we suggest 106 consultation.</p>	<p>City Light understands that sealing the power tunnel, as described in the preferred alternative, would have an adverse effect. Given the existing inaccessible nature of the power tunnel compared with other highly visible and accessible elements of the project (i.e., the powerhouse and penstock), City Light has no current plans for historic preservation of the tunnel. As discussed in Comment #9, City Light will hire a consultant to evaluate proposed project effects to all historic properties, including the power tunnel. For any effects that are adverse, City Light will develop mitigation strategies through consultation.</p> <p>The preferred alternative best balances preservation of historic properties and other cultural resources with restoration of terrestrial and aquatic habitats and provision for interpretive opportunities. Our goal is to focus our historic preservation efforts on the historic properties that are the most visible and accessible to visitors.</p>
12	NPS	<p>We appreciate SCL's commitment to assess hazardous substances in the power tunnel; however, we reiterate our original request that SCL conduct a complete environmental site assessment within the existing footprint to determine whether any potential environmental liability exists as a result of SCL operations. This includes, but is not limited to, determining whether contamination from hazardous substances has occurred and whether a threat of</p>	<p>As provided in the "<i>Response to Comments on Preliminary Project Description and Pre-Submittal Review Draft Application and Plan</i>" within the Surrender Application, City Light agreed to complete an evaluation of the materials and the potential for toxicological effects in the penstock tunnel. In response to this comment, City Light will extend this evaluation to other operational activity centers, to include the powerhouse, the dam/headworks, and the power tunnel. The NPS will be provided a copy of the evaluations once available.</p>

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		<p>release of hazardous substances exists. The areas to be assessed shall include, but are not limited to, the soils and any materials within the existing footprint of the Project, including the power tunnel and powerhouse. SCL may exclude soils underneath the penstock from consideration if those soils were considered as part of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process for the Newhalem Penstock CERCLA site and if decommissioning activities would not alter the findings, conclusions, and/or recommendations reached in the Newhalem Penstock Engineering Evaluation and Cost Analysis (in review). Decommissioning activities include the potential removal of the penstock and other associated infrastructure. The site assessment shall include, but not be limited to, all CERCLA hazardous substances, including lead and asbestos. The NPS also asserts the right to rely on this assessment.</p>	
13	NPS	<p>We remain concerned that head cutting erosion associated with removal of the diversion dam needs to be mitigated by the installation of a grade control structure and we request that SCL work collaboratively with NPS to design and install a structure following guidance developed by the U.S. Forest Service</p>	<p>City Light does not support installation of a grade control structure because it would prevent full restoration of the creek. The diversion structure itself is a grade control and the stream grade has adjusted to the structure over the past century. The diversion dam is underlain by bedrock which will prevent any further downcutting and allow the stream to adjust to the pre-Project base level following its removal. The large substrate in the stream (boulder, cobble) is anticipated to result in a slow adjustment (over several decades) to pre-Project conditions. A new grade control in place of the existing diversion dam grade control would not return the stream to a pre-Project condition. We look forward to further consultation with the NPS to discuss their goals for Newhalem Creek.</p>

#	Party	Full Comment	Formal Response
		(2008, Appendix F) as part of the Decommissioning Plan.	
14	NPS	As stated in the application, SCL expects "4 to 7 ft of bed-lowering extending approximately 1,000 ft upstream from the diversion." Based on field observations we assert that head cutting in the bed of Newhalem Creek could extend further upstream due to the lack of a clear grade control.	See response to comment 13. The diversion dam is underlain by bedrock which provides grade control following removal of the structure. The 4 to 7 feet of bed-lowering extending approximately 1,000 ft upstream from the diversion would be the greatest change in elevation to the stream bed, however it is anticipated that the stream will adjust up to the confined reach approximately 0.5 miles upstream of the division.
15	NPS	Additionally, given the frequency and magnitude of "atmospheric river" precipitation events that result in severe flooding with increased scour, we are concerned that the risk of head cutting has not been adequately addressed and the likelihood the stream will slowly adjust over decades does not accurately reflect current conditions.	City Light will review the Geomorphology Considerations Report (Dube 2021) that was provided to the NPS on December 20, 2021, in consideration of this comment and will update the report if necessary.
16	NPS	SCL also states a grade control structure would prevent the transport of sediment downstream (Appendix C, Comment 24). We instead assert that a properly constructed grade control structure is necessary to restore natural sediment transport downstream after the diversion dam is removed which would be necessary to protect fish habitat up and downstream of the diversion dam.	<p>Please see response to comment #13. The channel immediately downstream of the diversion is a high gradient, bedrock channel. The bedrock will limit channel incision at the diversion site and the high gradient channel downstream from the diversion will quickly transport sediment from the impoundment to the alluvial fan and Skagit River, restoring pre-Project conditions.</p> <p>City Light looks forward to coordinating with the NPS to better understand how a constructed grade control structure would better restore natural sediment transport verses the existing bedrock that was present prior to the dam's construction.</p>
17	NPS	Also note that the analysis of head cutting and sediment transport associated with removal of the diversion dam is based on a draft report (Dube 2021) which states: "The	City Light looks forward to further consultation with the NPS regarding their goals for Newhalem Creek and the need for more detailed study.

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		<p>results presented in this report should be considered reconnaissance-level. More detailed sediment transport analyses would require additional information that is not currently available.” For these reasons, we request a more detailed study be conducted to help determine the effects of removing the diversion dam and aid in the design of a grade control structure.</p>	
18	NPS	<p>We also request that SCL collaborate with NPS on the goals, objectives, and methods of this assessment.</p>	<p>Noted.</p>
19	NPS	<p>The Decommissioning Plan is deficient in the detail necessary to implement, determine best management practices, or evaluate the effects of removing the road and culvert, restoring natural drainage patterns, preventing long and short-term erosion associated with deconstruction activities and abandonment of infrastructure, preventing the spread and establishment of invasive weeds, and restoring native plant communities. The NPS requests all these activities, including monitoring plans for each, be developed in consultation with NPS and included in the Decommissioning Plan.</p>	<p>Although many best management practices (BMPs) were included in the Surrender Application, development of specific and detailed BMPs, including those for sediment and erosion control, invasive weed control, and restoration prescriptions will be developed during the design phase, once there is more information on various project elements. City Light will coordinate development of BMPs with the NPS during the design phase.</p> <p>As indicated in the Surrender Application, management plans for sediment and erosion, invasive weeds, and restoration will be developed in coordination with the NPS. Restoration plantings will be monitored for success. The Surrender Application also included a provision for developing a Road Decommissioning Plan that will provide detail on restoration of drainage patterns.</p>
20	NPS	<p>The NPS also requests these plans be fully developed for inclusion in the NEPA analysis.</p>	<p>Management plans will be developed during the design phase, once there is more project detail, in coordination with the NPS. The inclusion of these plans, and any provisions contained within them, would not change any effects at the level in which effects would be analyzed in the NEPA document.</p>

#	Party	Full Comment	Formal Response
21	NPS	Additionally, we request that the Decommissioning Plan and NEPA analysis include the removal/restoration of the road from the Rock Shelter trailhead to the powerhouse and the dam access road above 840 feet. The Application for Surrender of License only considers the abandonment of the dam access road above 840 feet.	City Light agrees that if the powerhouse and penstock are removed, this portion of the road should be decommissioned similar to the proposal for the dam access road.
22	NPS	The NPS requires a permit for SCL to access the project area through NPS lands. This permit requirement should be reflected in the plan.	Decommissioning activities will be covered by the FERC license and FERC's Surrender Order and should not require a separate special use permit. For any infrastructure that remains, City Light will maintain the infrastructure in accordance with an MOA that will be developed specifically for that purpose. Please refer to comment response #10.
23	USIT	However, City Light did not address the USIT's most important concerns. City Light should pursue full removal of all Project infrastructure, including the powerhouse, tail race, and penstock (Alternative B). Project decommissioning provides a unique opportunity to restore the landscape to a more natural state. Full removal is the only course for adequately protecting the USIT's cultural resources and treaty rights.	<p>City Light is proposing to proceed with removing the dam, headworks, and tailrace fish barrier, as well as decommissioning the dam access road above 850' in elevation. This will restore approximately 2.78 acres of habitat, as well as the natural stream dynamics and pre-project aesthetics of Newhalem Creek. Approximately 0.16 acres of infrastructure would remain (of the 2.94 total acres) in order to preserve listed historic properties and provide for recreational and educational opportunities. City Light looks forward to working with the Tribe to make this alternative more favorable.</p> <p>We would like to coordinate with the USIT to better understand how full removal of the Project is the only way to adequately protect USIT cultural resources and treaty rights. Hunting is not permitted by the NPS because of the proximity to the town of Newhalem and Newhalem Campground.</p>
24	USIT	The USIT also recognizes and supports comments from the National Park Service (NPS) on the application. As administrator of the lands upon which the Project exists, it is particularly important for Project decommissioning to respect NPS authorities and responsibilities, which includes a federal trust responsibility to protect the USIT's treaty rights.	Noted. However, to City Light's knowledge, the preferred alternative will not affect Tribal hunting, fishing, or gathering treaty rights. Hunting in Ross Lake NRA remains bound by Washington State regulations at distances greater than ¼ mile from developed areas, including the town of Newhalem, and selected other locations. The penstock and powerhouse are within ¼ mile of the town of Newhalem, so hunting is already limited in the vicinity of those structures. There is native vegetation throughout the area and there is nothing now, or in the proposal that would restrict fishing in the creek or river. Rather, the project intends to improve habitat for plants, fish, and wildlife, both at the headworks and at the creek mouth. We welcome the opportunity to further discuss treaty rights with the USIT.

#	Party	Full Comment	Formal Response
25	USIT	<p>An overriding reason City Light did not select Alternative B (full removal) is that loss of integrity to historic properties constitutes an adverse effect under Section 106. However, the USIT does not believe this offers an adequate or compelling reason to maintain the powerhouse, tailrace, and penstock.</p>	<p>The preferred alternative was selected because it balances preservation of publicly visible, accessible historic properties and protection of cultural resources with restoration of terrestrial and aquatic habitats and providing for interpretive and recreational opportunities.</p> <p>The purpose of Ross Lake National Recreation Area is to complement North Cascades National Park and conserve the scenic, natural, and cultural values of the Upper Skagit River Valley and surrounding wilderness, including the hydroelectric reservoirs and associated developments, for outdoor recreation and education.</p> <p>Ross Lake National Recreation Area was established by Congress on October 2, 1968 “in order to provide for the public outdoor recreation use and enjoyment of portions of the Skagit River and Ross, Diablo, and Gorge Lakes, together with the surrounding lands, and for the conservation of the scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters”</p>
26	USIT	<p>City Light's application does not provide adequate justification for keeping the above-ground infrastructure on the landscape. The USIT requests that the full removal alternative be further evaluated, including Section 106 review and analysis under the National Environmental Policy Act.</p>	<p>City Light expects FERC staff to analyze full removal as an alternative in the NEPA document. However, City Light recommends that staff adopt Alternative C as the preferred alternative because it best balances preservation of historic properties and other cultural resources with restoration of terrestrial and aquatic habitats and provision of interpretive opportunities. The preferred alternative keeps intact historic properties that are easily accessible to the public, whereas the dam is inaccessible due to the conditions of the road and the hazards associated with the landslide, and the power tunnel has special confined space entry requirements for trained professionals. The powerhouse and penstock are easily accessible to the public, being situated at both the end of the Trail of Cedars and the campground Linking Trail and being part of a large 1-mile interconnected recreational corridor. These interconnected trails and powerhouse are widely visited by the public. The powerhouse provides educational, interpretive, and recreational opportunities. All adverse effects to historic properties within the Area of Potential Effect (APE) will be evaluated as part of the Section 106 process. The Tribe will be consulted throughout that process.</p>
27	USIT	<p>Based on review of the Historic Structures Review in City Light's application and its Appendix B Technical Memorandum, it appears that the penstock and powerhouse have lost integrity through the alteration of design, materials, workmanship, feeling, and association of their</p>	<p>Per the Appendix B Technical Memo, the Newhalem Creek powerhouse and saddles were found to retain their integrity by an independent consultant. It is reasonable that changes to historic properties are needed over time and some repairs or alterations are needed to provide for efficient continued use. The choice of repair or alteration treatment depends on a variety of factors, including the property's historical significance, physical condition, proposed use, and code requirements. The Standards for Rehabilitation, developed by The Secretary of the Interior to determine the appropriateness of proposed project work on registered properties, assist the long-term preservation of a property's significance through the preservation of historic materials and features. Rehabilitation is "<i>the act or process of making possible a compatible use for a</i></p>

#	Party	Full Comment	Formal Response
		original character. Examples include, the metal roof on the powerhouse and the replacement of decaying wooden saddles with concrete to support the aging penstock, among other alterations that are documented in Appendix B.	<i>property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.</i> " It also allows for <i>"new work that shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."</i> Both the metal roof and the concrete saddles fall into the rehabilitation standard. Changes in material are not the only determining factor.
28	USIT	However, the assessment that these structures retain integrity is obfuscated by the manner in which significance was determined. In fact, the USIT agrees with item 4. Integrity Analysis in Appendix B, which admits that "Analysis of the powerhouse and penstock's integrity is complicated by the dual nature of the two resources' significance: they have significance associated with elements from both the original period of construction in 1921 and the 1969 restoration effort." The attempt to argue two different periods of significance, 1921 and 1969, is confusing, difficult to justify, and inconsistent. A fire in 1966 and a rebuild of the Newhalem Creek powerhouse three years later is not sufficient to make 1969 a period of significance.	History is not static. It is quite common to have multiple eras of significance associated with a listed historic property since it further tells the history of that property. In this case, the penstock represents the initial 1920s timeframe when it was built, and the powerhouse represents the 1966-1969 timeframe when it burned down due to a wildfire and was rebuilt shortly thereafter in the same location and similar style to the original powerhouse. The 1969 rebuilt powerhouse and its 1920s equipment were found to be "contributing" to the listed Skagit River and Newhalem Creek Hydroelectric Project (a historic district) for its "association with the Skagit River Hydroelectric Project and the town of Newhalem" as noted in the Appendix B Technical Memorandum. Understanding changes to the property over time helps to portray its history, as noted in National Register Bulletin 15: <i>"A specific property can be significant within one or more historic contexts, and, if possible, all of these should be identified"</i> (NR Bulletin 15, page 9).
29	USIT	The current National Register form for DT66 is being updated (Appendix C, comment #58) but a copy was not made available at the time these comments were prepared. The USIT looks forward to review of the updated draft.	City Light will provide the USIT a copy when available. The update is required under the current license for the Skagit Project and is not part of the decommissioning process.

#	Party	Full Comment	Formal Response
30	USIT	Table E-1 of the application says that Alternative B may result in adverse effects to historic properties, including the diversion dam, penstock, and powerhouse. Whether or not this is the case, the USIT believes that City Light needs to consider alternative ways to address adverse effects through mitigative treatments.	City Light recognizes there will be adverse effects to historic properties within the APE as a result of the preferred alternative, and City Light looks forward to mitigating for those effects collaboratively with the consulting parties. However, City Light believes that the powerhouse and penstock are important extant physical elements of City Light's early history and provide easily accessible recreational and educational value to the public and is therefore choosing to keep these resources. One of the ways that City Light is proposing to mitigate the adverse effects to the dam and power tunnel is by expanding the educational opportunities already provided by the powerhouse and penstock. City Light welcomes additional input for mitigation.
31	USIT	Also, on pg. E-2 and in Table E-1, City Light has said that all interpretive/educational value is lost under Alternative B, a claim the USIT contests. Quite the contrary, City Light is well-positioned to develop interpretive and educational offerings about the Newhalem Creek Project.	It is a more profound experience for visitors to see resources in their original context. While photographs, web content, and scale models are valuable, they do not provide a comparable visitor experience.
32	USIT	It is the USIT's belief that any adverse effect caused by the removal of the powerhouse, tail race, and penstock can be mitigated through any number of educational and interpretive offerings, based on City Light's thorough documentation, including that of its nearby Skagit Hydroelectric Project (P-553).	While it is true that in general any adverse effect can be mitigated, City Light desires meaningful interpretation of the historical development of hydropower in the region, and extant physical elements within their own historic context are the best way to achieve this.

#	Party	Full Comment	Formal Response
33	USIT	<p>City Light deserves much credit for its considerable accomplishments over many years in archiving its project histories, beginning with its earliest developments in the Upper Skagit Valley. The variety and extent of this documentation is impressive, and includes photos, detailed drawings, textual records, architectural and engineering plans, and maps, for example. Furthermore, City Light has compiled and synthesized these records in its Skagit River and Newhalem Creek Hydroelectric Projects historic district (DT66) and in the Appendix B Technical Memorandum of the application, both of which are available to the public. In addition, many City Light historic photos of its Skagit Project are accessible on line in the Seattle Municipal Archives Digital Collection, complemented by project history on City Light's website (https://seattle.gov/city-light/about-us/history) and other authoritative online websites, such as Historylink.org. (a recent search offered 9 feature stories and 9 timeline entries about City Light's Skagit Project).</p>	Noted.
34	USIT	<p>City Light has a successful record of conducting public education and outreach through its well publicized programs, the Skagit Tours and</p>	<p>We agree that the historic growth and earliest period of City Light's development of Newhalem is important to interpret. Tangible remnants of that early history are finite and provide the best way to engage visitors and provide evidence of this part of the complex history of the region.</p>

#	Party	Full Comment	Formal Response
		<p>Outdoor Recreation partners. There exist countless more opportunities for City Light to use its documentary resources for public benefit, including on its Skagit Tours on Diablo Lake, in its Newhalem Skagit Information Center, and in its self guided tours, aided by interpretive/educational panels. Other possibilities include, for example, the creation of a scale model of the original Newhalem Creek Project to represent and convey its historic context. In place of long-term structure maintenance, City Light's outreach program could be designed to represent and convey the historic growth and earliest period of City Light's development of Newhalem.</p>	<p>City Light plans to incorporate the Newhalem Powerhouse into the existing Tour program, using the program that is already in place to educate the public. Visiting the powerhouse and penstock in its existing environment is the best way to convey its history.</p>
35	USIT	<p>Regarding any adverse effect due to destruction or removal of historic properties, there is nothing that says this cannot be done if the consulting parties are in agreement. Again, the adverse effect can be mitigated because City Light has so thoroughly documented its project that significance of the removed structures is conveyed by its documentary record through increased education and outreach.</p>	<p>See response to comment #32.</p>
36	USIT	<p>From the USIT's perspective, implementation of Alternative B will have the long-term beneficial effect of helping to restore cultural, visual, and natural elements to the historic character of its National Register-eligible Skagit River</p>	<p>City Light's goal is to balance historic and cultural resources preservation, habitat restoration, and recreation. Alternative C, the preferred alternative, restores all aquatic habitat and all but 0.16 acres of terrestrial habitat, and allows for the continuance and enhancement of recreational, educational, and interpretive opportunities.</p> <p>We acknowledge that the presence of the project has an adverse effect on the USIT's TCP</p>

#	Party	Full Comment	Formal Response
		<p>Gorge and Canyons TCP District (45WH450), whose boundaries take in all of the Newhalem Creek Hydroelectric Project. And at the same time, this form of mitigation brings the additional benefit of reversing the course of a 100 year-long historic trend of cultural and environmental degradation of the USIT's traditional homeland.</p>	<p>45WH450. We look forward to working with the Tribe to better understand the impacts to the TCP from the project and to collaboratively develop mitigation for adverse effects.</p>
37	USIT	<p>The application describes additional concerns with full removal, however the USIT believes the benefits would outweigh impacts. Increased noise associated with decommission is an unfortunate, but acceptable short-term impact when compared against the alternative of leaving the landscape scarred by the remaining infrastructure. Potential disturbance to archeological sites is indeed a serious concern, but risk could be minimized by implementation of the survey measures noted in City Light's comment to the USIT, Appendix C, comment #98.</p>	<p>City Light does not agree that preservation of historic properties that are listed in the NRHP leaves a scar on the landscape, particularly the powerhouse and penstock, which have been kept in good condition and are appreciated by the public. However, we appreciate and respect the USIT's perspective.</p> <p>The retention of historic properties on the lower portion of the project will not only add to the visitor experience and preserve important historical structures but has the added benefit of avoiding ground disturbance in a highly sensitive area. We understand that adverse effects to any historic property, including archaeological sites, can be mitigated. However, we would like to avoid those impacts to the best of our ability rather than mitigate for them.</p>

#	Party	Full Comment	Formal Response
38	USIT	The USIT believes the long-term outcome would be a more culturally intact environment restored for the benefit of future generations.	<p>We recognize that this landscape is important to the USIT and that the Tribe would prefer that City Light's historical presence on the landscape be removed. As a public utility and as FERC's non-federal Section 106 representative, City Light has a responsibility to consider the preservation of existing historic properties, potential adverse effects to existing and as-yet unknown historic properties, and impacts to Tribal cultural resources. We are committed to mitigation strategies and interpretation of cultural history beginning with the Tribe's continuous presence from time immemorial, through the more recent entangled history of the development of hydropower and presence of City Light, to today's highly visited National Park and RLNRA.</p> <p>The preferred alternative best balances preservation of historic properties and other cultural resources with restoration of terrestrial and aquatic habitats and provision for interpretive opportunities.</p>
39	USIT	Soil disturbance and erosion associated with removal of the penstock is not an acceptable reason to keep the structure intact. These environmental concerns can be minimized through appropriate BMPs and remediation planning.	The avoidance of soil disturbance and erosion is only one of several reasons for keeping the penstock in place. However, it is worth noting that the disturbance associated with removal of the penstock saddles would be significant and would, in essence, scar the hillside because of the need to excavate soil and chip away bedrock. The removal project would create a much larger footprint than currently exists, and one likely to be apparent for generations, even with restoration plantings.
40	USIT	In sum, the USIT recommends that City Light utilize a version of its established outreach program to mitigate any adverse effect to historic structures resulting from its implementation of Alternative B.	<p>City Light desires meaningful interpretation of the earliest development of hydropower in the region, and extant physical elements within their own historic context are the best way to achieve this. City Light plans to incorporate the Newhalem Powerhouse into its well-established tour program, using the existing outreach program to educate the public.</p> <p>We will collaboratively develop mitigation for adverse effects to all historic properties.</p>
41	USIT	The Decommission Plan should minimize noise disturbance, tree removal, and time required to complete the project.	City Light agrees. The Decommissioning Plan was designed to minimize noise disturbance, tree removal, and construction time; thus, helicopters were not included in the Decommissioning Plan for material transport. The Plan will be refined to further reduce environmental effects when more of the project details have been developed during the design phase.
42	USIT	In general, more detailed information is needed to determine a specific set of least impactful actions.	City Light included as much detail as possible in the Surrender Application and Decommissioning Plan to provide FERC with the information needed for its environmental review. We acknowledge that additional information is needed to determine the least impactful approach to dam and road removal. This will occur in the design phase. City Light will continue to collaborate with the USIT as the project progresses.
43	USIT	The USIT requests to be involved in development of future decommission	The Decommissioning Plan was designed to minimize disturbance during removal of the dam, tailrace, and road. While helicopters were initially considered to access the dam, this idea was

#	Party	Full Comment	Formal Response
		<p>and management planning. Specific concerns include the number of trees (live and dead) to be removed for road repair and helicopter access, details on the helicopter landing sites, identification of potential alternative landing sites, and the expected disposition and condition of any trees that must be removed (preference is for root wads intact and placed as through natural windfall).</p>	<p>abandoned because of the number of trips that would be needed and associated noise and tree removal requirements. City Light will continue to collaborate with the USIT as the project progresses, particularly if any trees are required for removal.</p>
44	USIT	<p>The 2015 Goodell fire could impact the peak streamflow for decades to come. Although the vegetation succession has already begun, the sparse presence of large, living trees will continue to be important for forest regeneration. These trees will also have important ecological benefit for bank stabilization, food web inputs for aquatic systems, and terrestrial wildlife. As such, the USIT expects significant effort to preserve the trees in the vicinity of the diversion dam. It may be useful to consult logging helicopter operators who are practiced in removing large trees or bundles of wood without landing.</p>	<p>City Light understands the importance of large trees and agrees that minimizing tree removal near the dam site will be an important element in the project design phase. As stated above, the use of helicopters is no longer under consideration for material transport.</p>
45	USIT	<p>The USIT has concerns of temporarily infilling the step pools downstream of the dam after its removal, which would have impacts to cultural and aquatic resources.</p>	<p>Nearly annually since 1997, City Light has removed approximately 200-400 cubic yards of sediment from behind the dam and placed the material just below the diversion dam as part of a condition of the FERC license, a condition that was requested by license participants. The step pools, which are in an extremely high gradient reach of the stream, have not been observed to fill with sediment as a result of this maintenance. Following removal of the diversion structure, sediment will be transported under high flow conditions that will move the majority of the sediment quickly through the high gradient, step/pool reach. It is not anticipated that there will be substantial accumulations of sediment in the pools. Regardless, City Light plans to meet with the USIT to better understand their goals for restoration.</p>

#	Party	Full Comment	Formal Response
46	USIT	The Decommission Plan does not adequately address questions regarding gradients, stream competency, flow statistics and aspects of the proposed regrading.	City Light provided this information in Exhibit E and in its response to comments in the Surrender Application, as well as in the Geomorphology Considerations Report (Dube 2021) that was provided to the USIT on November 26, 2021. City Light will coordinate with the USIT to better understand these concerns and to help clarify any questions about the project and any potential effects.
47	USIT	It is not clear what the target elevation of the streambed will be after dam removal, the channel gradient, how far upstream the regrading will occur, and quantity and disposal location of the spoils. These details should be developed with the goal to avoid increased sediment delivery into the pools and aquatic habitats downstream of the dam.	<p>As provided in the Surrender Application, current plans are to remove the diversion structure, in which the new elevation will be 1,015 ft NAVD88 (1,009 ft Skagit Project datum), approximately 10 ft below the top of the diversion. This will lower the base level of Newhalem Creek at the existing diversion location to the pre-project level and allow the stream to naturally adjust to the pre-project base level.</p> <p>The project concept has been designed to minimize sediment released downstream of the dam during construction by conducting the removal during low flow and using a phased approach to prevent and/or minimize in-water work. During the design phase, City Light will continue to develop measures that will minimize sediment transport.</p>
48	USIT	The USIT recommends end hauling any spoils to the Skagit River to dampen the effect of increased sediment transport.	<p>City Light is unclear about the reference to "end spoils" and will follow up with USIT to clarify. If the term "end spoils" is referring to the native creek material used to fill the supersacks, City Light believes that this material could be placed back in the creek following construction, possibly to the sides of the channel so that it is transported downstream later in time during peak flow events, emulating natural sediment transportation, and similar to the annual gravel passage City Light conducts as a condition of the FERC license. City Light believes leaving the sediment in Newhalem Creek is important for natural processes and is unaware of a place along the Skagit River that would be easy to access and without environmental impacts. City Light will coordinate with the USIT further on this matter.</p> <p>Regardless, the specific construction methods for removal and hauling will be developed during the design phase in conjunction with the construction plans. Coordination will occur with the regulatory agencies to develop specific design and construction standards, erosion control measures, sediment controlling excavation/fill practices, and other BMPs. As described in the Surrender Application, a Sediment and Erosion Control Plan will be prepared in consultation with the agencies and affected tribes.</p>

#	Party	Full Comment	Formal Response
49	USIT	<p>The plan emphasizes near-term environmental effects of turbidity associated with removing the dam. This has potential to affect fish in the anadromous zone. The USIT would like to consider mitigation methods to help minimize the immediate impacts. If possible, City Light should establish some form of sediment retention immediately downstream of the dam during removal.</p>	<p>Nearly annually since 1997, as a condition of the FERC license that was requested by license participants, City Light has removed approximately 200-400 cubic yards of sediment from behind the dam and placed on the other side of the dam during low flow. Turbidity monitoring was conducted downstream, and it was observed that turbidity returned to baseline conditions within a couple of hours. There are no known effects to anadromous fish as part of this annual process, a fact that is supported by the renewals of permits from Washington Department of Fish and Wildlife and Water Quality Certifications since 1997, in addition to Section 7 Consultation for federally-listed fish species.</p> <p>During Project decommissioning, the sediment in the current impoundment will begin to be transported downstream following dam removal. It is anticipated that short-term turbidity effects will be similar to the annual maintenance described above. Due to the coarse sediments in the streambed, an armor layer will form that will slow erosion/turbidity effects. During each subsequent high flow event, additional sediment will be transported downstream; turbidity effects during these high flow events are anticipated to be minor since background turbidity is higher during peak flows. City Light looks forward to further coordination with the USIT to discuss its goals for Newhalem Creek and potential turbidity mitigation concerns and methods.</p>
50	USIT	<p>The USIT supports disposal of concrete in the rock shaft and power tunnel if it will reduce the overall noise disturbance and construction schedule, assuming water quality will not be affected by water leaching through the disposed materials. The USIT requests City Light assess the potential for water quality contamination before using this approach.</p>	<p>Using the rock shaft for disposal of concrete will reduce the number of trips needed to move material off site and therefore reduce noise disturbance and the construction schedule, at least to some degree. City Light understands the importance of maintaining high water quality and will assess the concrete for the presence of hazardous materials. If hazardous materials are found, the tunnel would not be used for disposal.</p>
51	USIT	<p>Removal of material off-site should be conducted to reduce noise disturbance and scope of required road repairs. If helicopters are used, noise levels should be considered when selecting the helicopter make/model and the number of flights should be minimized.</p>	<p>Agreed. City Light is not proposing to use helicopters because of the number of trips required and the associated noise and tree removal/clearance requirements. However, the use of trucks for removal will require some repairs to the road. Like the USIT, City Light hopes to minimize the scope of the required repairs while ensuring that the work can be done safely.</p>

#	Party	Full Comment	Formal Response
52	USIT	The approach for sealing the power tunnel should include measures to prevent capture of surface or hyporheic flow.	City Light agrees. The specific methodology for sealing the power tunnel will be developed further during the design phase.
53	USIT	The source of water currently exiting the power tunnel should be investigated and whether the Project will impact groundwater flow paths and surface expression.	Water that is currently exiting the tunnel flows through the penstock and into the tailrace/intermittent creek. This will continue as part of the preferred alternative. A small trickle of water also exits the adit which subsequently infiltrates into the ground. This hydrology would also not change as a result of the preferred alternative. The source of this water is from natural fractures in the bedrock, which the power tunnel and adit have intercepted. The preferred alternative would not impact existing groundwater flow paths and would not create new surface expressions.
54	USIT	The vegetation and channel restoration plans are not discussed in adequate detail, including for vegetation planting, channel grading, and bank stability.	As provided in the Surrender Application, a Restoration Plan will be developed in collaboration with the NPS that will address these details during the project's design phase.
55	USIT	The USIT requests several years of monitoring to determine progress of channel morphology within the unconfined reach upstream of the dam and major pools downstream. This will be useful information to help determine actual resource impacts as well as improve understanding of the processes that influence upper watershed streams in City Light's footprint.	City Light does not believe that advancing the understanding of stream processes is relevant to decommissioning. Regarding post-decommissioning monitoring downstream of the dam, we believe this is unnecessary since the effects of removal would be similar to the annual gravel passage City Light has conducted since 1997, in which no negative effects have been observed to habitat or fish. Upstream post-decommissioning monitoring is unwarranted because, due to the bedrock grade control at the base of the dam, the stream will be returning to its pre-project base level and achieving natural conditions upstream of this location. Further, the stream's morphology will be influenced by a variety of natural factors, particularly in this environment consisting of landslides, log jams, wildfire, etc. The new base level, and any associated morphological changes in the creek upstream, would occur over many decades, and would not be observed over a period of a few years. Lastly, if changes were detected upstream, it would be impossible to determine whether they were due to dam removal or other natural factors; without an access road or landing pad for a helicopter it would be impossible to address stream changes without removing trees in an area that had been fully restored.
56	USIT	The intermittent stream channel has been altered by generation flows (rerouting of Newhalem Creek). The original dimensions of the channel should be determined and restored.	City Light will review the available historic sources including LiDAR data to determine if the original channel dimensions can be determined. Variation to the stream's current configuration could involve removal or significant root disturbance to large, mature conifer trees. Thus, City Light will coordinate with the NPS and USIT on the findings of the location of the pre-project channel to determine an appropriate path forward.
57	USIT	The risk of incision following removal of the weir should be assessed and	Noted. City Light will look at all aspects of the weir removal during the design phase.

#	Party	Full Comment	Formal Response
		<p>any necessary actions taken to avoid or mitigate impacts to channel habitat conditions. The weir likely interacts with Skagit River high flows, thus impacting backwater habitat, which is important for anadromous salmonids, including Endangered Species Act (ESA)-listed Chinook Salmon. Protection and restoration of anadromous salmonid habitats should be a priority concern.</p>	
58	USIT	<p>The USIT would prefer the road be fully decommissioned and a trail left in place for future pedestrian access.</p>	<p>The preferred alternative includes decommissioning the roadway above the Skagit River Hydroelectric Project Emergency Action Plan (EAP) muster point, located at approximately 850' in elevation on the roadway. The NPS does not prefer a trail, but City Light will decommission the road in a manner that best preserves pedestrian access following decommissioning, while also considering worker safety.</p>
59	USIT	<p>As stated in the application, road work should follow established procedures, such as those developed for Washington Forest Practices Road Maintenance and Abandonment Plans.</p>	<p>Noted.</p>
60	USIT	<p>The penstock serves an ongoing purpose to drain water from the leaky tunnel. The erosion prevention provided by the penstock could be addressed in other ways. The USIT would prefer the leaks were grouted so that water can continue as fractured flow to where it would otherwise go. Alternatively, if the volume of discharge is known City Light could consider the actual erosive potential and, if necessary, design a less obtrusive, inexpensive solution.</p>	<p>Noted. City Light will consider various options if the penstock is removed.</p>

#	Party	Full Comment	Formal Response
61	USIT	For removal of the penstock and saddles, the USIT suggests consulting with logging operators to discuss ways to utilize heavy equipment on slopes to preserve slope stability without the need for extra roads (e.g. suspension systems and tethered options). Impact from removal could be minimized by avoiding need for an access road by using a helicopter for extraction or spider excavator for direct access to the penstock.	Noted. City Light is not proposing to remove the penstock or saddles. However, if it is necessary to do so, City Light would work with construction experts to evaluate how to best minimize the construction impacts for the removal of the penstock and saddles.
62	USIT	Loss of the Emergency Action Plan (EAP) access point should not be adequate reason to keep the penstock and saddles in place. City Light should investigate alternative locations for the EAP access point, with a focus on areas already disturbed and more heavily used by the public.	The emergency access trail will remain in place regardless of the outcome of the powerhouse and penstock. It is part of the EAP for the Skagit River Hydroelectric Project and is not connected to the FERC license for the Newhalem Project.
63	USIT	Prior to removal of the powerhouse, City Light should conduct a thorough assessment for hazardous materials and water quality concerns. The tail race leads directly to anadromous streams, including critical habitat for ESA-listed Chinook Salmon and steelhead trout.	As provided in the " <i>Response to Comments on Preliminary Project Description and Pre-Submittal Review Draft Application and Plan</i> " within the Surrender Application, City Light agreed to complete an evaluation of the materials and the potential for toxicological effects in the penstock tunnel. In response to the NPS' comment, City Light will extend this evaluation to other operational activity centers, including the powerhouse, the dam/headworks, and the power tunnel.
64	USIT	All overhead powerlines should be removed, including the power supply line to the powerhouse.	City Light will evaluate alternatives for minimizing the distribution line footprint. If a feasible way of providing power and minimizing the footprint is identified, City Light will select that option.
65	USIT	Under Article 409 of the existing license for the Newhalem Project, City Light conducts maintenance of County Line Pond No. 3. The pond is mitigation for aquatic habitat impacts caused by City Light's nearby Skagit	This license requirement was to mitigate for fish losses at the Project's intake. The intake will no longer be active; thus, this license condition has been fulfilled and City Light does not plan on further maintenance of County Line Pond under the scope of this license. Based on a site visit to County Line Ponds in 2021, it appears that this area has not been used for several years. City Light conducts maintenance on this pond as needed and requested by WDFW.

#	Party	Full Comment	Formal Response
		Hydroelectric Project (P-553). City Light should describe whether the maintenance requirement will be transferred to the Skagit Project license or remain as an ongoing responsibility of the Newhalem Project decommissioning.	If continued maintenance of the pond is an interest, this can be approached in the context of the Skagit River Hydroelectric Project relicensing.
66	WDFW	WDFW supports the recommendations by the National Park Service (NPS) for the full removal of above-ground project features as proposed in Alternative B. The full structure removal will restore the fish and wildlife habitat to its fullest. Although SCL touts the small acreage differences between Alternative B and Alternative C, the long linear nature of the penstocks and their supports have much greater effect than a small rectangular area of impact.	City Light understands that the configuration of structures can affect wildlife use patterns. It is well known that long linear features like pipelines have a notable effect on the migration patterns of herding animals like caribou; roads also influence wildlife movement, especially by smaller mammals and amphibians. However, City Light does not agree that the penstock has a significant effect on wildlife movement in the area. First, the above ground section of the penstock is only 700 ft long and the area does not support herding species of wildlife. Second, the area underneath and along the penstock is vegetated and provides cover and forage. Third, the penstock is elevated, from 6 inches to 6 ft above the ground. Amphibians and small mammals can easily move along or under the entire penstock. Larger mammals can move around within a short distance or under the many sections that are 3-6 ft above the ground surface. There is significant evidence of bear and deer use in the area.
67	WDFW	With the great reduction to old-growth and mature habitat from the latest wildfire, SCL can conduct restoration with less impacts to those associated species.	City Light agrees that restoration activities in an area without old-growth and mature forests will not impact these habitat types.
68	WDFW	WDFW favors the removal of the penstock, saddles, three-phase electric service powerlines, and the powerhouse, in addition of those structures removed in the SCL-preferred alternative, Alternative C.	Noted. The preferred alternative best balances preservation of historic properties and other cultural resources with restoration of terrestrial and aquatic habitats and provision of interpretive opportunities. Only historic properties that are difficult to access, such as the dam and power tunnel, will be removed, yet by removing the dam and sealing the power tunnel, the creek's natural function and pre-project cultural setting will be restored. By eliminating most vegetation maintenance along the penstock and reducing the powerhouse parking lot to only 3 spaces, the preferred alternative restores terrestrial habitat to all but 0.16 acres of the 2.94 acres that would be restored in the full removal alternative. The reserved 0.16 acres would allow for the continued use of the historic powerhouse and penstock by the public for education and interpretation, as they are focal points along trails within an interconnected recreational corridor of the RLNRA.
69	WDFW	SCL could move the powerhouse, sections of the penstock, and any	See response to comment #31.

#	Party	Full Comment	Formal Response
		<p>other historic structures to Newhalem on SCL-owned land for future, historic interpretation. Historic structures would prove more accessible to all visitors and more likely to receive visitation in or very near the historic town of Newhalem.</p>	
70	WDFW	<p>The removal of all above-ground structures and restoration would also reduce maintenance needs by the NPS.</p>	<p>The NPS would not be responsible for maintenance of the structures that would remain in place. City Light anticipates implementing a MOA with the NPS regarding maintenance of the facilities.</p>
71	WDFW	<p>WDFW recommends the removal of all overhead powerlines associated with the Project, which includes the 3-phase electrical service, distribution powerlines that cross the Skagit River to the Newhalem Powerhouse. WDFW recommends that SCL directionally drill their power lines underneath the Skagit River or remove the lines permanently. As another option, SCL could trench their distribution lines in an upstream direction on the Skagit River, so that the lines can cross the Skagit River through pipes/cases directly on the upstream bridge, without additional impacts to migrating birds. If SCL uses the upstream bridge to attach the lines, they would avoid a Newhalem Creek crossing and have less distance to trench.</p>	<p>City Light will evaluate alternatives for minimizing the distribution line footprint. If a feasible way of providing power and minimizing the footprint is identified, City Light will select that option.</p>
72	WDFW	<p>WDFW has concerns with collisions with the electrical service lines across the river by those bird species that would use the Skagit River as a migration corridor: waterfowl,</p>	<p>City Light acknowledges that distribution lines represent a collision risk to birds. A large number of factors affect collision risk, including the height and diameter of the lines, adjacent habitats, weather, time of day and species behavior. Most birds using the Skagit River as a migration corridor would be expected to be flying at higher elevations, well above the tree canopy. Birds traversing the river corridor in daily movements are probably more at risk than migratory birds.</p>

#	Party	Full Comment	Formal Response
		<p>raptors, and marbled murrelets. WDFW has assumed that the electrical service, distribution lines will cross the river and therefore may cause bird collisions and possible mortality. Migrating birds have difficulty with the identification of the smaller, electrical service, distribution lines as an obstacle. WDFW has more concerns with the smaller electrical service distribution lines, than the larger transmission lines. Murrelets may fly at lower elevation, if they have nests in the greater area, when they come below tree canopy, start circling behavior, or dip down as they fly up into the nest tree.</p>	<p>As stated in the BA, the Newhalem Creek Project area has been heavily impacted by wildfire, and little, if any, suitable nesting habitat occurs for the marbled murrelet. Furthermore, the Project is on the edge of the inland range for this species. Radar surveys indicate that adult marbled murrelets may use Newhalem Creek and the Skagit River as flight corridors to and from marine foraging areas and suitable habitat outside the action area.</p> <p>To reduce collision risk for all avian species, City Light will install bird deterrents on the line to improve visibility. City Light will also evaluate alternatives for minimizing the distribution line footprint.</p>
73	WDFW	<p>In general, the larger old-growth and mature trees have survived the forest fires in the riparian areas in and close to the Project, which increases chances for marbled murrelets to migrate up and down the Skagit River.</p>	<p>The BA noted that there are a few old-growth and mature trees along the Skagit River in the vicinity of the tailrace barrier and Trail of the Cedars. However, the presence of a few large trees in an area heavily impacted by wildfire has no bearing on use of the Skagit River as a migration corridor for murrelets.</p>
74	WDFW	<p>WDFW expressed concerns to SCL about the electrical service lines, during preliminary comments. In responses to WDFW's comment, SCL responded that they did not see any evidence of a problem with bird collisions. WDFW would note that birds that collide with powerlines and the possible resulting carcass would end up downstream or predated by scavengers. A visitor to the area had a small chance to locate a carcass, unless the person witnessed the collision or arrived at the area, soon</p>	<p>City Light acknowledges the difficulty of documenting avian collisions with power lines unless an outage occurs, which does not always happen, especially if smaller birds are involved. In Seattle, which has numerous distribution lines near water and parks with large bird populations, most documented mortalities are of Canada geese and occasionally, great blue herons. City Light has an Avian Protection Plan on file with the USFWS and strives to prevent bird mortality from powerline collisions and electrocution. The Plan includes measures to address lines and poles that have known mortalities and best practices to minimize risk of collision and electrocution. Further, City Light has the required permits from USFWS and WDFW.</p> <p>Newhalem does not have a large population of corvids or other scavenger species. Furthermore, geese and herons, which are far more susceptible to collision than corvids, are present in relatively small numbers in the area.</p>

#	Party	Full Comment	Formal Response
		after the collision. WDFW would assume that Newhalem contains a large population of Corvids, besides the multiple other species of scavengers.	
75	WDFW	In preliminary comments, The National Park Service recommended the possible use of grade control structure on Newhalem Creek. WDFW would supports this structure, if the structure allows full upstream and downstream fish passage.	There is no spawning or rearing habitat for fish between the existing dam and the 100-foot waterfall just downstream. Please see response to comment #13.
76	WDFW	Full fish passage in the grade control structure would probably require constant maintenance, so WDFW recommends a Grade Control Structure Maintenance Plan to accompany its construction.	City Light does not support installation of a grade control structure because it would prevent full restoration of the stream and is antithetical to the purpose of decommissioning and restoration of the stream. Aside from being unnecessary because bedrock beneath the dam would serve as a grade control resembling pre-project levels, the area will be inaccessible due to the condition of the road and the plans for decommissioning it. Furthermore, the stream will be influenced by a variety of natural factors, such as landslides, log jams, wildfire, etc., potentially rendering any grade control structure ineffective in the future. Thus, City Light is not in favor of maintaining the grade control structure if we are required to construct one.
77	SSIT	Notwithstanding the comments of the National Park Service, the decommissioning of the Newhalem Project must occur in a fashion which restores the land to a state consistent with the future exercise of hunting, fishing, gathering natural vegetation, and cultural resources of the Point Elliott Treaty Tribes. Please also bear in mind that the United States government, as a party to the treaty, has a trust responsibility owed to such tribes, including the Sauk-Suiattle Indian Tribe. It is not apparent that the applicant's decommissioning plan is sufficient to protect such rights.	<p>To City Light's knowledge, the preferred alternative will not affect Tribal hunting, fishing, or gathering treaty rights. Hunting in Ross Lake NRA remains bound by Washington State regulations at distances greater than ¼ mile from developed areas, including the town of Newhalem, and selected other locations. The penstock and powerhouse are within 1/4 mile of the town of Newhalem, so hunting is already limited in the vicinity of those structures. There is native vegetation throughout the area and there is nothing now, or in the proposal that would restrict fishing in the creek or river. Rather, the project intends to improve habitat for plants, fish, and wildlife, both at the headworks and at the creek mouth. We welcome the opportunity to further discuss treaty rights with the Sauk-Suiattle Indian Tribe.</p> <p>As part of our responsibilities under the National Historic Preservation Act, we will hire a consultant to evaluate the projects effects on cultural resources. We will consult with the Tribe throughout that process.</p>

#	Party	Full Comment	Formal Response
78	SSIT	The Sauk-Suiattle endorses the comments of the Upper Skagit Indian Tribe and otherwise agrees with the comments of the National Park service.	Noted.
79	Swinomish	The Tribe supports the decommissioning of the Newhalem Creek Hydroelectric Project and the associated surrender of license, based on anticipated benefits to fish habitat.	Noted.
80	Jack. F.	Repeats comment # 76.	See response to comment #76.
81	American Rivers	AR supports the decommissioning of the Newhalem Creek Project.	Noted.
82	American Rivers	The Licensee presents a plan to decommission select elements of the Project, but AR requests a more thorough evaluation of the removal of all Project facilities, including the powerhouse, tailrace, and penstock. This evaluation should include a thorough description of the processes carried out under Section 106 of the National Historic Preservation Act of 1966 (NHPA) in order to fully understand consultation efforts made with NPS as they are the managing agency.	<p>City Light's Surrender Application and Decommissioning Plan for Newhalem Creek presented as much detail as possible for the proposed project, which includes removing the diversion dam, tailrace barrier and road and leaving the powerhouse and penstock in place. The guidelines for surrender applications do not require an evaluation of alternatives.</p> <p>City Light is the designated non-federal representative for Section 106 consultation and will be initiating this process with the NPS, tribes and DAHP. As part of its Section 106 responsibilities, City Light will be hiring a consultant team to conduct a full evaluation of the project which will include an archaeological survey, an evaluation of all buildings and structures, and coordination with affected Tribes regarding places of traditional importance. Any project effects to historic properties will be evaluated, and those effects that are found to be adverse will result in mitigation that will be developed through consultation.</p>
83	American Whitewater	American Whitewater requests a more complete evaluation of fully removing project facilities including the powerhouse, tailrace, and penstock.	See response to comment #82.

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 1st day of July, 2022.

/s/ Chris Todd _____
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