

GABRIELA GOLDFARB CONSULTING

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August 18, 2008

Fred Ayer, Executive Director
Low Impact Hydropower Institute
34 Providence St.
Portland, ME 04103

Subject: Final Recertification Application Reviewer Report for the
Skagit River Hydroelectric Project

Dear Fred:

Attached please find my final reviewer's report on the application by Seattle City Light for certification of the Skagit River Hydroelectric Project by the Low Impact Hydropower Institute (LIHI). Please contact me with any questions or concerns.

Best regards,

s//Gabriela

Gabriela Goldfarb

Attachment: as described.

Low Impact Hydropower Institute Re-Certification Review of the Skagit River Hydroelectric Project

Introduction

Overview. This report reviews the application submitted by Seattle City Light (applicant) to the Low Impact Hydropower Institute (LIHI) for LIHI re-certification of the Skagit River Hydroelectric Project (project or facility) located on the Skagit River in Washington State. The Federal Energy Regulatory Commission (FERC) relicensed the project (FERC 553) in 1995 for the operation and maintenance of the project, which has a total installed capacity of 689.94 megawatts.

The FERC license incorporates the provisions of settlement agreements resulting from negotiations in 1991 among the applicant and a dozen stakeholders, including federal and state agencies, Indian tribes, and an environmental group. The agreements address mitigation of impacts to fisheries, wildlife, recreation and aesthetics, erosion control, cultural resources (archaeological and historic resources), and traditional cultural properties.

Certification history. The LIHI Governing Board voted unanimously to certify the project in May 2003, a certification that was valid till May 2008. LIHI accepted and posted to the LIHI website an application for re-certification on April 24, 2008, opening a 60-day public comment period. LIHI received one comment in support of the project during that time.

Project and site characteristics. The project is located on the Skagit River in north-central Washington State, within Snohomish, Skagit, and Whatcom counties. The headwaters of the Skagit River originate in Canada, and the project occupies portions of the Mount Baker-Snoqualmie National Forest (managed by the U.S. Forest Service) and Ross Lake National Recreation Area adjacent to North Cascades National Park (managed by the National Park Service). The project is operated for electricity production in a peaking mode (water is stored and released in accordance with energy needs, subject to restrictions for environmental protection), as well as flood control and downstream flow regulation. The project supplies approximately one-quarter of the City of Seattle's electricity needs.

The Skagit Project includes three facilities (from upstream to downstream: Ross, Diablo, and Gorge) each consisting of a dam, powerhouse, and associated reservoir. The facilities are located in close proximity to one another, along approximately 33 miles of the Skagit River.

The largest and upstream-most project facility is Ross Dam (river mile 105). The 540-foot high, concrete arch dam was built in stages between 1937 and 1967 and creates Ross Lake, a 24-mile long reservoir which extends approximately 1.5 miles north of the U.S. - Canada border and covers 11,700 acres. Ross Lake is the primary storage reservoir for the project. The Ross facility has an installed capacity of 360 megawatts.

The second project facility is located approximately 4 miles downstream of Ross dam. This facility comprises the 389-foot high Diablo dam (river mile 101), an associated powerhouse, and the 910-acre Diablo Lake. The concrete arch dam became operational in 1936 and is used primarily to regulate daily and weekly discharge from Ross Dam. The Diablo facility has an installed capacity of 122.46 megawatts.

The third and most downstream facility is Gorge dam and powerhouse. Gorge dam (river mile 97) is a 300-foot high concrete arch and gravity diversion dam built in 1961. The dam creates the 240-acre Gorge Lake. The Gorge facility has an installed capacity of 207.48 megawatts. Water diverted at Gorge dam to the Gorge powerhouse travels through an 11,000-foot long penstock, creating a 2.7 mile long bypassed reach immediately downstream of Gorge Dam along the Skagit River.

A short section of river (approximately 1 mile) persists between the Diablo powerhouse and Diablo Dam; the remaining reaches between the dams are inundated by the reservoirs. Maps showing the location and physical features of the project dams and setting are included in the applicant's recertification application.¹

Public and agency comment. LIHI received one public comment in support of re-certification from a private citizen.² Agency and other stakeholder comments obtained in the course of this re-certification review ranged from positive to glowing in terms of the applicant's meeting, and on a number of counts exceeding, the letter and spirit of its commitments to responsibly manage impacts from its hydropower project. All agency and stakeholder comments are included at the end of this report.

Recommendation. Based on my review of information submitted by the applicant, the reviewer and staff reports prepared at the time of the original certification, and my present-day consultations with tribal, state, and federal resource agency staff and public interest groups, I believe the Skagit River Hydroelectric Project meets all of the criteria to be re-certified and I recommend re-certification. In addition, I believe the project meets the watershed protection criterion to make it eligible for an additional three years of certification.

Review of Consistency With Low Impact Certification Criteria

A. *Flows*

- 1) Is the Facility in Compliance with Resource Agency Recommendations issued after December 31, 1986 regarding flow conditions for fish and wildlife protection, mitigation and enhancement (including in-stream flows, ramping and peaking rate conditions, and seasonal and episodic instream flow variations) for both the reach below the tailrace and all bypassed reaches?**

YES

Officials from the Skagit River System Cooperative (Skagit Tribes), National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (FWS), the Washington Department of Fish and Wildlife (WDFW), and Washington Department of Ecology (Ecology) concurred in praising the applicant for continuing to meet and in some cases exceed requirements for managing flows to benefit fish and wildlife. Those requirements are arrived at through a series of calculations established in the 1991 Skagit Fisheries Settlement Agreement that vary depending on precipitation and river levels, and take into account reservoir elevation and seasonal and episodic

¹ The recertification document is available at: <http://www.lowimpacthydro.org/application-attachment.aspx?id=254>

² See <http://www.lowimpacthydro.org/application-attachment.aspx?id=254>

runoff, with a focus on protection of all life stages of salmon and steelhead in the upper Skagit River.

In its recertification submittal, the applicant noted that steelhead salmon populations, including the Skagit River population, were listed as Threatened under the federal Endangered Species Act in 2007 (the applicant notified LIHI of that fact in a May 24, 2007 letter). When asked specifically about the listing, none of the resource agency staff indicated that it raised concerns about the applicant's management of flows. The applicant monitors flows and ramping rates in conjunction with agency and tribal representatives and has made adjustments as needed to protect fishery resources. By way of example, the Skagit River System Cooperative (Skagit Tribes) representative recounted that the applicant moved voluntarily to expand the window for higher flows to protect chum spawning after WDFW raised concerns that the window was too short.

Regarding conditions in the bypassed reach below Gorge Dam, at the time of the project's original LIHI certification, the application reviewer's report noted the following:

As a result of the settlement negotiations, resource agencies did not require flows for the Gorge bypass reach, which remains partially dewatered at times. Agency and tribal representatives indicated that migratory fish habitat in the bypass reach was given up to allow for additional flows in higher quality habitats downstream of the Gorge powerhouse, and to provide more funds for habitat improvement and mitigation projects (Wright pers. comm., Sprague pers. comm., Fransen pers. comm., Walsh pers. comm.). Anadromous fish habitat in the 2.7 mile reach is of low quality, especially at higher flows; by allowing releases from the Gorge powerhouse downstream of the bypass reach, Seattle City Light is able to provide flows for fisheries protection while generating electricity, thus making releases for fisheries purposes economically viable for the utility. To support the negotiated dewatered conditions of the bypass reach, the reach was given a "special condition status" by the Washington State Department of Ecology that allows for higher instream water temperatures than required in downstream waters (see Section B. Water Quality below).

In consultations for this re-certification review, present day agency staff (including two of the officials interviewed in 2002) remain satisfied with the applicant's management of project flows in the bypassed reach.

If YES, go to B.

PASS.

B. Water Quality

1) Is the Facility either:

- a) In Compliance with all conditions issued pursuant to a Clean Water Act Section 401 water quality certification issued for the Facility after December 31, 1986? Or**
- b) In Compliance with the quantitative water quality standards established by the state that support designated uses pursuant to the federal Clean Water Act in the Facility area and in the downstream reach?**

YES.

There is no 401 certification for this project; according to an Ecology official, the project relicensing occurred during a period in which Ecology could not prepare a 401 certification due to staffing constraints. Consultations with state and federal resource agency staff indicated no concerns about the project's impact on water quality. The Skagit River below the project has the water quality designation Class AA - Extraordinary, meaning that it supports to a "high degree" all beneficial uses (water supply, fish and shellfish, wildlife habitat, recreation, and navigation). State of Washington water quality monitoring records indicate the project is in compliance with Class AA quantitative water quality standards, except for the Gorge bypass reach, which is designated with a "special condition status" for water quality.³ The status requires that temperatures not exceed 21°C in the reach due to human activities (normally, Class AA waters must not exceed 16°C as a result of human activities; see mention of this in the "Flows" discussion above). Resource agencies agreed to special water quality condition status for the bypass in the settlement agreement to make environmental flow releases from the Gorge powerhouse downstream of the bypass reach, where it would do the most good for aquatic resources, economically viable for the applicant.

If YES, go to B2.

- 2) Is the Facility area or the downstream reach currently identified by the state as not meeting water quality standards (including narrative and numeric criteria and designated uses) pursuant to Section 303(d) of the Clean Water Act?**

NO.

None of the project waters appear on the most recent (2004) nor the proposed (2008) 303(d) list of impaired waters. All waters in the project vicinity are designated "Category 1," meaning that they meet water quality standards for all the pollutants for which they were tested.

If NO, go to C.

PASS.

C. Fish Passage and Protection

- 1) Is the Facility in Compliance with *Mandatory Fish Passage Prescriptions* for upstream and downstream passage of anadromous and catadromous fish issued by Resource Agencies after December 31, 1986?**

NOT APPLICABLE

Resource agencies did not issue anadromous/catadromous fish passage prescriptions, nor reserve authority to issue future fish passage for such species, as part of the settlement agreements or relicensing. A review of the original submittals and reports from the 2003 certification indicate that natural barriers to passage and marginal habitat in the vicinity of the Gorge Dam (the lowest

³ Data is available at the following Department of Ecology website:
<http://www.ecy.wa.gov/apps/watersheds/riv/station.asp?theyear=&tab=wqi&scrolly=270&wria=04&sta=04A100>

of the three dams) led resource agency officials negotiating the settlement agreements to focus on flow improvements as the way to significantly improve Skagit River anadromous fisheries. None of the officials contacted in the course of the re-certification review indicated that fish passage requirements are desired by resource agencies at this time.

If NOT APPLICABLE, go to C2.

- 2) Are there historic records of anadromous and/or catadromous fish movement through the Facility area, but anadromous and/or catadromous fish do not presently move through the Facility area (e.g., because passage is blocked at a downstream dam or the fish run is extinct)?**

NO

In 2003 the application reviewer originally concluded that under a plain reading of one element of the fish passage criteria, the Gorge Dam component of the three-dam project did not meet this criterion, resulting in an original recommendation to fail the project, despite the application reviewer's stated conclusion that "the Skagit Project...is operating with minimal impacts to fisheries and the environment." The LIHI staff report disagreed and made the case for certification as being in line with the overall goal of rewarding responsibly managed hydropower projects.

The focal point for this disagreement over the facility's compliance with LIHI's criteria was the question of whether there were historic records of anadromous and/or catadromous fish movement through the facility area. Because the application instructions did not provide guidance on how to evaluate the quality of historical records about fish passage, and because, in the case of the facility, the available historical data provided conflicting information about the passage of migratory fish (specifically steelhead), the application reviewer believed that the existence of any historical account of steelhead above the Gorge Dam automatically meant failure of that criteria. The applicant made the case that historical records indicating an absence of steelhead above the present-day Gorge Dam were more credible than contemporaneous accounts of steelhead at that location. LIHI staff agreed with the applicant.

Prior to its vote on the certification of the facility, the LIHI Governing Board voted to amend its application instructions for completing the application question regarding historic records of fish passage to include the following: "Does the weight of the record show that anadromous and/or catadromous fish moved through the facility area on a more than incidental basis?" With the adoption of this guidance, the application reviewer agreed that the weight of evidence in the case of the facility did not show that steelhead moved through the facility area on a more than incidental basis, and that on those grounds the facility met the criteria and should be certified.

In the course of the present re-certification review, no resource agency official raised anadromous/catadromous fish passage as a present or future concern. (Though resource agency officials declined to request a reservation of fishway prescription authority in settlement negotiations, FERC license standard article 15 reserves FERC's authority to require fish passage in the future, should circumstances warrant.)

If NO, go to C3.

- 3) If, since December 31, 1986:**
- a) Resource Agencies have had the opportunity to issue, and considered issuing, a**

Mandatory Fish Passage Prescription for upstream and/or downstream passage of anadromous or catadromous fish (including delayed installation as described in C2a above), and

- b) The Resource Agencies declined to issue a Mandatory Fish Passage Prescription,**
- c) Was a reason for the Resource Agencies' declining to issue a Mandatory Fish Passage Prescription one of the following: (1) the technological infeasibility of passage, (2) the absence of habitat upstream of the Facility due at least in part to inundation by the Facility impoundment, or (3) the anadromous or catadromous fish are no longer present in the Facility area and/or downstream reach due in whole or part to the presence of the Facility?**

NO

Documents from the original certification process indicate that natural passage barriers and poor quality habitat in the vicinity of the Gorge Dam led resource agencies to focus on management of flows as the relevant tool for addressing anadromous fish concerns at the project. No agency staff raised passage for anadromous or catadromous species as a present-day concern.

If NO, go to C5.

- 5) Is the Facility in Compliance with Mandatory Fish Passage Prescriptions for upstream and/or downstream passage of Riverine fish?**

NOT APPLICABLE

Resource agencies did not issue prescriptions for passage of riverine fish. See, however, section E. Threatened and Endangered Species Protection, below, regarding possible future interest in passage for bull trout.

If NOT APPLICABLE, go to C6.

- 6) Is the Facility in Compliance with Resource Agency Recommendations for Riverine, anadromous and catadromous fish entrainment protection, such as tailrace barriers?**

NOT APPLICABLE

There are no resource agency recommendation for fish entrainment protection, nor did agency staff contacted in the course of this review raise concerns about this issue.

If NOT APPLICABLE, go to D

PASS.

D. Watershed Protection

- 1) Is there a buffer zone dedicated for conservation purposes (to protect fish and wildlife habitat, water quality, aesthetics and/or low-impact recreation) extending 200 feet from the high water mark in an average water year around 50 - 100% of the impoundment, and for all of the undeveloped shoreline**

NO

The dams and reservoirs associated with the project are located within the Ross Lake National Recreation Area adjacent to North Cascades National Park. A portion of the transmission corridor is in the Mt. Baker-Snoqualmie National Forest, and where the transmission corridor is near the Skagit River or Sauk River, the river enjoys protection through its federal wild and scenic river status.

If NO = go to D2

- 2) Has the facility owner/operator established an approved watershed enhancement fund that: 1) could achieve within the project's watershed the ecological and recreational equivalent of land protection in D.1., and 2) has the agreement of appropriate stakeholders and state and federal resource agencies?**

YES

According to the applicant the number of acres contained in a 200-foot zone extending around the project's three impoundments totals 2,053 acres. The Skagit project settlement agreement and FERC license required the applicant to dedicate "up to \$17 million for land acquisition and habitat manipulation and enhancement." At the time of the project's initial certification in 2003, the applicant had made conservation acquisitions of land in the Skagit River basin totaling 4,278 acres (and an additional 3,991 acres in the South Fork Nooksack River basin, northwest of the Skagit basin). Between 2003 and 2007, the applicant acquired an additional 1,725 acres of land for conservation in the Skagit basin (and 41 acres in the Nooksack River basin). The applicant acquired the lands using its own funds, its own funds in conjunction with matching funds from other public sources, and via the Trustland Transfer Program managed by the State of Washington's Department of Natural Resources (DNR), which allows the DNR to transfer state land that it manages to willing recipients, free of charge, so long as the receiving entity agrees to protect the natural resource values inherent in the tracts. According to Mr. Fayette F. Krause, Special Projects Manager, The Nature Conservancy, the applicant is pursuing acquisition of another 1,300 acres through the Trustland Transfer Program. Mr. Krause was one of a number of people consulted during this review who commented that the applicant has gone above and beyond the land acquisition and watershed protection provisions spelled out in the 1991 Wildlife Settlement Agreement and Erosion Control Settlement Agreement.

If YES = Pass, go to E and receive 3 extra years of certification

PASS.

E. Threatened and Endangered Species Protection

- 1) Are threatened or endangered species listed under state or federal Endangered Species Acts present in the Facility area and/or downstream reach?**

YES

Four terrestrial species listed as threatened under the federal Endangered Species Act (ESA) and as endangered under the equivalent state law (except as noted) occur in the project area: grizzly bear, northern spotted owl, marbled murrelet (state threatened), and the grey wolf. Bald eagle and peregrine falcon, formerly listed as threatened, now carry the designation of federal species of concern and state sensitive species. In 1999 two aquatic species were listed in the project area under the federal ESA: chinook salmon (threatened – Puget Sound Evolutionarily Significant Unit), bull trout (threatened – Puget Sound Recovery Unit). In May 2007 Puget Sound steelhead was federally listed as threatened. Chinook salmon and steelhead are present downstream of the project and bull trout are located in each of the project reservoirs and upstream and downstream of the project facilities.

If YES, go to E2.

2) If a recovery plan has been adopted for the threatened or endangered species pursuant to Section 4(f) of the Endangered Species Act or similar state provision, is the Facility in Compliance with all recommendations in the plan relevant to the Facility?

NOT APPLICABLE

None of the recovery plans for listed terrestrial species include recommendations specific to the project, nor does the recovery plan for Puget Sound chinook salmon, adopted in 2006. However, NMFS official described the fishery-related measures under the various Skagit project settlement agreements as being highly compatible with, and supportive of, chinook salmon recovery plan implementation.

There is no adopted recovery plan for bull trout, but FWS issued a draft plan in 2004. The draft plan's implementation schedule proposes that the applicant have a lead (but not a sole role) for implementing and coordinating three actions:

- Provide adequate fish passage around diversions and dams.
- Reduce reservoir operation impacts.
- Provide sufficient instream flow downstream from dams and diversions.

The implementation schedule further identifies the applicant as a “participant” in determining the level of interaction between bull trout and Dolly Varden populations, and in conducting migrational studies. The plan notes that with respect to this latter action, the applicant is already sponsoring a joint study in the Upper Skagit core area with the Canadian government.

According to agency staff consulted in this review, Seattle City Light staff have been and continue to be active and supportive participants in the recovery planning and implementation process for all the listed aquatic species (e.g., Chinook Recovery Implementation Technical Team, Steelhead Technical Recovery Team).

If NOT APPLICABLE, go to E3.

3) If the Facility has received authority to incidentally *Take* a listed species through: (i) Having a relevant agency complete consultation pursuant to ESA Section 7 resulting in a biological opinion, a habitat recovery plan, and/or (if needed) an incidental Take statement; (ii) Obtaining an incidental Take permit pursuant to ESA Section 10; or (iii) For species listed by a state and not by the federal government, obtaining authority pursuant to similar state procedures; is the Facility in Compliance with conditions pursuant to that authority?

NOT APPLICABLE

The project has not received authority to incidentally take listed species; the project underwent FERC relicensing prior to the 1999 listing of chinook salmon and bull trout, and the 2007 listing of steelhead. NMFS does not currently consider the Skagit Project a high priority for Section 7 consultation for chinook salmon due to the adequacy of mitigation measures implemented under the settlement agreements. FWS staff reported that the agency is awaiting the outcome of extensive studies now underway for bull trout to determine whether Section 7 consultations are needed for the project.

If NOT APPLICABLE, go to E5.

5) If E.2. and E.3. are not applicable, has the Applicant demonstrated that the Facility and Facility operations do not negatively affect listed species?

YES

In 1994, FWS concurred with FERC's determination that the project was "not likely to adversely affect" listed terrestrial species. The applicant's original LIHI certification application details the research showing that listed aquatic species have remained stable or improved since the implementation of settlement agreement provisions related to flow management (in particular) and habitat protection. All state, federal, and tribal agency staff consulted during this re-certification review were unanimous in endorsing the applicant's actions to support the recovery of listed aquatic species, and did not raise any concerns about terrestrial species. As mentioned above, depending on the outcome of ongoing studies, FWS may in the future recommend bull trout passage.

If YES, go to F.

PASS.

F. Cultural Resource Protection

1) If FERC-regulated, is the Facility in Compliance with all requirements regarding Cultural Resource protection, mitigation or enhancement included in the FERC license or exemption?

YES

The applicant appears to have met the letter of all cultural resource protection requirements of the FERC license and settlement agreements concerning cultural, archaeological, and historic resources. Representatives of the Swinomish Indian Tribal Community and the National Park Service (NPS) have indicated their general satisfaction with the applicant's implementation of the agreements. The Sauk-Suiattle Tribe's response to a request for information was not available by the time this report was finalized; their input will be presented during the Governing Board's deliberations, and is expected to be generally positive.

NPS officials did indicate areas of possible improvement. One was improving compliance with Section 106 of the National Historic Preservation Act, which requires a review of all actions which may affect a property listed on the National Register of Historic Places (or a property

eligible for listing). An NPS official cited “some very small ground-disturbing/undertaking activities that take place on SCL lands, and occasionally on NPS-administered land where the NPS-SCL land boundary is either uncertain, or where... locally-established procedures beginning decades ago have become established practice; SCL staff in the Seattle office are rarely made aware of these kinds of small activities, but the overall scale of these activities is small.” Another NPS staffer expressed two concerns. One is that the applicant’s retiring cultural resources staff person be replaced with “someone with cultural resource credentials and not have this become a collateral duty for an environmental planner.” The other was that there are “some significant buildings which have not undergone preservation treatment and are deteriorating due to a lack of a management decision (the Gorge Inn comes to mind).” However, both NPS officials expressed in writing their overall satisfaction with the applicant’s performance.

A final outstanding issue, which could not be fully vetted, is that a representative of the Upper Skagit Tribes said he believed the applicant “could do more” with respect to cultural resource protection. The official has not responded to repeated efforts to contact him and obtain further information (he did not reply to repeated emails, and when reached on his cell phone, said he did not have time to speak beyond the brief comment noted above, and has not responded to subsequent voicemail messages). Given the vagueness of the comment and its inconsistency with the statements of the other signatories to the relevant settlement agreements, it would not seem to rise to the level of a significant concern with the applicant’s adherence to its cultural resource protection obligations.

If YES, go to G.

PASS.

G. Recreation

1) If FERC-regulated, is the Facility in Compliance with the recreational access, accommodation (including recreational flow releases) and facilities conditions in its FERC license or exemption?

YES

Under the recreation settlement agreement, the applicant is obligated to provide, or fund the Forest Service, NPS, or the North Cascades Conservation Council to provide, a range of visitor serving facilities, infrastructure, and services in an area far beyond the project boundary, totaling approximately \$17 million over the term of the project’s FERC license. These include public access, facility tours, boating, picnicking, camping, hiking, and environmental education. The Visual Quality Mitigation Plan further requires the applicant to maintain Ross Lake water levels, revegetate areas, improve and increase public access and viewpoints, at a total cost of approximately \$7.5 million over the term of the license. Forest Service, NPS, and North Cascades Conservation Council staff consulted for this re-certification review confirmed that the applicant has met all of its recreation-related requirements, and has in a number of instances gone above and beyond the letter of those obligations.

If YES, go to G3.

2) Does the Facility allow access to the reservoir and downstream reaches without fees or charges?

YES

The project facilities are located entirely within the Ross Lake National Recreation Area, which is managed by the NPS. Access to the reservoirs is free to the public.

If YES, go to H.

PASS.

H. Facilities Recommended for Removal

1) Is there a Resource Agency Recommendation for removal of the dam associated with the Facility?

NO

If NO, facility is low impact.

PASS.

FACILITY IS LOW IMPACT

RECORD OF CONTACTS

Date of Email: July 10, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Don Gay, Wildlife Biologist Mt. Baker Ranger District
Telephone/email: dgay@fs.fed.us
Areas of Expertise: Watershed protection, T&E species

Mr. Gay's email read, in relevant part: "I can confirm that SCL is meeting its wildlife obligations to the USFS by funding research on bald eagles every five years. I can also confirm that SCL is meeting its obligations to provide a wildlife research fund. If you'd like to discuss this more, please feel free to contact me at the phone number below."

Date of Email: July 10, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Fayette F. Krause, Special Projects Mgr, The Nature Conservancy
Telephone/email: fkrause@TNC.ORG
Areas of Expertise: Watershed, T&E species

Mr. Krause's email read:

I continue to serve on the Land Acquisition Group and the Land Management Group formed at the signing of the Negotiated Settlement for the relicensing of SCL's Skagit River Dams. I have been a member of both groups since their inception (representing N3C) and have also been authorized to spend paid work time assisting SCL in projects of mutual interest. I work with a number of Federal, State, and Local agencies in my capacity as Special Projects Mgr at the Conservancy, and I can say without reservation that no agency/entity that I work with exceeds Seattle City Light in its commitment to environmental excellence.

I'll note three recent examples of this commitment:

1. SCL sought and secured U. S. Fish and Wildlife Service Section 6 funding to purchase 1080 acres of land in the Boulder Creek drainage (tributary to the Cascade River, Skagit County, Washington). The funding, which benefits Threatened/Endangered species thru land acquisition, is demonstrably beneficial to a highly threatened run of Spring Chinook salmon and bull trout. It also has potential to serve as dispersal area for spotted owls and nesting habitat for marbled murrelets.

2. Removal of a bridge and abutments on the South Fork Nooksack River is another case in point. SCL again sought and received partial outside funding to remove an impediment to natural river flow on this branch of the Nooksack River. This was the highest priority project for the Land Mgmt Group. The SCL staff person overseeing the project overcame numerous obstacles to implementation to achieve the removal objective. It's but another example of the utility's diligence once they have made a commitment to a project.

3. SCL has championed land protection thru the Trustland Transfer Program managed by WA's Department of Natural Resources (DNR). This program allows the DNR to transfer state land that it manages to willing recipients, free of charge, so long as the receiving entity agrees to protect the natural resource values inherent in the tract(s). This June, the DNR nominated approx. 1300 acres, which SCL had requested, for legislative consideration during Washington's 2009-11 session of the State Legislature. This demonstrates SCL's pro-active attempts to partner with other agencies in the utility's commitment to fish and wildlife protection. The Conservancy, through its legislative liaison in Olympia, is committed to making the SCL requested tracts a high priority for transfer.

In sum, the utility continues to exceed the commitments it made to environmental excellence with the Negotiated Settlement. Whether it be projects designed to benefit fish or wildlife, the utility has delivered far beyond requirements. I unhesitatingly recommend the recertification of Seattle City Light by LIHI.

Date of Conversation:	July 11, 2008
Application Reviewer:	Gabriela Goldfarb, Consultant
Person Contacted:	Stan Walsh, Skagit River System Cooperative (Skagit Tribes)
Telephone/email:	360-466-1512
Areas of Expertise:	Watershed, fish flows, T&E species

Mr. Walsh reported that there have been no adverse developments to report over the past five years, that the applicant continues to “voluntarily go the extra mile” and be “terrific to work with.” He described a recent issue that arose with respect to chum salmon. The Washington Dept. of Fish and Wildlife raised concerns that the window for flows to benefit chum spawning were too narrow. The fish coordinating committee established under the settlement agreement/FERC license studied the issue, and had the applicant’s staff charged with flow matters assess the costs and impacts to other species of changing flows to benefit salmon. The applicant voluntarily expanded the window of flows to benefit chum. Mr. Walsh cited that as an example of the applicant going beyond license requirements and being willing to make changes on a seasonal basis. He noted that typically flow models are designed to protect 95%-98%, but that the flow committee’s goal is 100%, and “if it is within their power, Seattle City Light will do it.”

Date of Email:	July 11, 2008
Application Reviewer:	Gabriela Goldfarb, Consultant
Person Contacted:	Steve Fransen, National Marine Fisheries Service
Telephone/email:	Steven.M.Fransen@noaa.gov
Areas of Expertise:	Fish, flows, watershed, T&E species

Mr. Fransen’s email read:

I continue to serve as NMFS' delegate to committees charged with implementing Seattle's Skagit Hydroelectric Project settlement agreement and FERC license. Seattle continues

to meet all of the fishery related terms and conditions of the license. We meet several times each year to set target stream flows for spawning for each fish species. Those flow levels then control subsequent flows and flow fluctuations to provide a high degree of protection to incubating eggs and alevins (pre-emergent fry) and post-emergent juvenile fish. We review what happened at subsequent meetings, sometimes making adjustments in season in response to changing conditions. Seattle fills the lead role in monitoring the water supply entering the project reservoirs and then coordinates with us (agency and tribal representatives) to plan future actions or make in season modifications, as necessary. The flow planning and management process continues to satisfy our fishery resource protection needs as best as we can determine.

You asked this morning on the phone about steelhead trout and their listing last year under the Endangered Species Act and any consequences related to the Skagit project. Steelhead are included among the species intended to be protected by Skagit project operations. As far as we have ever determined, the planned spawning and incubation and early juvenile rearing flow regime does achieve the intended protection result. The steelhead population in the Skagit is not doing especially well in recent years. However, that condition applies to all steelhead populations throughout the Puget Sound tributary rivers. As near as we can tell, the factor that most limits Puget Sound steelhead in recent years is something in the early marine waters rearing phase, and not in the freshwater rearing tributaries. I'm not suggesting that freshwater habitat is perfect for steelhead, but want to be clear that it doesn't seem to be the proximate cause of the depressed populations we've observed over the last decade and a half. Should we discover any negative relationship between the operations of the Skagit hydro project and the ESA listed steelhead population, we will try to work with Seattle to develop a solution.

If you have any other questions related to the Skagit hydro project or the salmon or steelhead populations there, please don't hesitate to call me.

Date of Email:	July 14, 2008
Application Reviewer:	Gabriela Goldfarb, Consultant
Person Contacted:	Greta Movassaghi, National Park Service
Telephone/email:	gmovassaghi@fs.fed.us
Areas of Expertise:	Recreation

Ms. Movassaghi wrote, in relevant part:

In the matters of which I am aware, Recreation in the Skagit Wild & Scenic River under the Recreation Settlement Agreement and the Forest Service portion of the Sediment Reduction project under the Fisheries Settlement Agreement, SCL has met it's responsibilities for mitigation and enhancement measures. If you have specific questions about these projects you can contact me at the Darrington number below.

Date of Conversation:	July 14, 2008
Application Reviewer:	Gabriela Goldfarb, Consultant
Person Contacted:	Bob Kuntz, wildlife biologist, National Park Service

Telephone/email: 360-854-7320
Areas of Expertise: T&E species

Mr. Kuntz explained that he was the lead wildlife biologist focusing on bird work, in particular eagle monitoring. He confirmed that the applicant is “doing what they agreed to do,” for example, underwriting the Newhalem research station which is managed by NPS and used by multiple agencies.

Date of Conversation: July 16, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Tim Romanski and Jeff Chan, USFWS
Telephone/email: 360-753-5823
Areas of Expertise: Watershed protection, T&E species, flow

Mr. Chen, who primarily interacts with the applicant on bull trout issues, reported that the applicant has done an “outstanding job” in supporting research, monitoring, and land protection, singled out the applicant’s staffer Ed Connor as having been instrumental in land acquisition, and noted that cooperative research with the Canadian government on the upper Skagit River would not have happened without the applicant’s efforts, and that the information was very important for bull trout recovery planning purposes. Mr. Romanski participates every 6-8 weeks on the flow/non-flow coordinating committee, less frequently on the wildlife committee, and is very happy with the applicant’s performance, particularly regarding funding for land acquisition and protection of bull trout and salmonids.

Date of Email: July 17, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Mark A. Hunter, Major Projects Section Manager, Habitat Program, Washington Department of Fish and Wildlife
Telephone/email: HUNTEMAH@DFW.WA.GOV
Areas of Expertise: Fish, wildlife, flows

Mr. Hunter wrote:

I have talked with regional staff and several people outside our agency concerning Seattle City Light's re-application for LIHI certification. I received no complaints or evidence of terms and condition violations, stalling tactics, or indifference to details. The account I got from the person most familiar with the project was clearly favorable, stating that Seattle set high standards for collaboration with resource agencies and sometimes went above the call of duty. Thus, I would support Seattle Application for LIHI certification. If you have additional questions, feel free to contact me.

Date of Conversation: July 18, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Larry W Campbell, Tribal Historic Preservation Officer, Swinomish Indian Tribal Community, SITC Cultural Resource

Protection Office
Telephone/email: 360-840-4127
Areas of Expertise: Cultural resources

Mr. Campbell reports that the applicant has been doing “a great job,” mentioning in particular an excellent working relationship established by Seattle City Light staffer Beth Blattenberg, very good communication with the tribe, and a productive partnership on archaeological projects with the applicant and the National Park Service. (Also see his follow up email dated July 21, text included below.)

Date of Conversation: July 18, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Scott Schuyler, Upper Skagit Tribes
Telephone/email: 360-854-7009, sschuyler@upperskagit.com
Areas of Expertise: Cultural resources

Mr. Schuyler mentioned briefly that he believed the applicant “could be doing more” with respect to cultural resource protection, and said that he wanted more background information before commenting (he said he did not receive my emailed background information). I agreed to contact him again after resending him the email.

NOTE: The above conversation resulted when he answered the call on my third try (I had left messages on 7/11 and 7/15). I resent the email on 7/18, then tried to contact him by telephone again, leaving messages 7/30 and 8/11. He has not responded to date.

Date of Conversation: July 18, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Gretchen Luxenberg
Telephone/email: Gretchen.Luxenberg@nps.gov, 206-220-4138
Areas of Expertise: Cultural resources

Ms. Luxenberg wrote:

I can only speak to SCL's performance as it relates to cultural resource preservation of its historic structures and gardens, and documentation efforts. I have been working in close collaboration with Beth Blattenberger over the past several years on numerous issues relating to building and landscape preservation. Beth has just retired. While Beth did not have a cultural resource preservation background, she did an excellent job in keeping SCL staff involved in preservation of the resources and ensuring that planning took place prior to work being completed. She contacted us to discuss preservation and rehabilitation work on the structures and historic gardens before contracts were awarded. She listened to the advice and recommendations we made. The training aspect of SCL's responsibility under the relicensing has not gone as well as we would have thought by this point: we are still mostly conducting very elementary training in why SCL has to conform with certain regulations, but this has been due to changing staff over the years and not having continuity among the people doing the work on the historic resources. They are gearing up to revise the National Register nomination form, and this

will require extensive cultural resource expertise.

My major concerns are that Beth's replacement be someone with cultural resource credentials and not have this become a collateral duty for an environmental planner. Also, there are some significant buildings which have not undergone preservation treatment and are deteriorating due to a lack of a management decision (the Gorge Inn comes to mind). This concerns me.

That said, overall I think they are doing a fairly good job of preserving and protecting most of their historic resources, and should be considered to be fulfilling their responsibilities, with the exception of the lack of action on the historic Gorge Inn.

Thank you for the opportunity to comment. Please call me if you have questions. I apologize for the delay in my response.

Date of Email: July 21, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Larry W Campbell, Tribal Historic Preservation Officer,
Swinomish Indian Tribal Community Cultural Resource
Protection Office
Telephone/email: lcampbell@swinomish.nsn.us, 360/466-7352
Areas of Expertise: Cultural and archaeological resources

Mr. Campbell wrote:

Also verifying our discussion on Friday, July 18, 2008. In regards to Cultural and Archaeological resources on the Skagit Project and Seattle City Light Dams, our department has a good relationship and feel that the conditions of the license are being honored. We work well with city light staff, Beth Battenberg, recently retired. Also the National Park Service Archaeologist, Robert Mierendorf. This office only addresses issues of cultural and archaeological resources, so there may be other departments that address the environmental issues. Thank you for communications. Please contact me if you have any further questions. LWC

Date of Email: July 22, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Bob Mierendorf, National Park Service, Cultural Resources
Telephone/email: Bob_Mierendorf@nps.gov
Areas of Expertise: Cultural resource protection

Mr. Mierendorf wrote:

Over the last 5 years Beth Blattenberger has been my SCL contact person and planner regarding implementation of the archeology part of the settlement agreements. Through Beth, SCL has done a very good job of meeting its FERC related obligations within Ross Lake and most of the FERC No. 553 project area. SCL staff have been great partners in positively working to meet the agreements, in working with NPS staff, and in consulting with the Skagit River tribal governments. One possible area of improvement is compliance with Sec. 106 assessments on some very small ground-disturbing/undertaking

*activities that take place on SCL lands, and occasionally on NPS-administered land where the NPS-SCL land boundary is either uncertain, or where a locally-established procedures beginning decades ago have become established practice; SCL staff in the Seattle office are rarely made aware of these kinds of small activities, but the overall scale of these activities is small. Let me know if you have any questions.
Thanks, Bob*

Date of Conversation: July 22, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Saul Weisberg, Executive Director, North Cascades Institute
Telephone/email: 360-856-5700 ext 210
Areas of Expertise: Recreation, environmental education

Mr. Weisberg said that Seattle City Light has shown an “inspiring” commitment to environmental education and recreation resources. Under the terms of the settlement agreement SCL funds underwrote most of the costs for construction of the North Cascades Environmental Learning Center operated by the North Cascades Institute. SCL has gone above and beyond the letter of their commitments, increasing support for programs over time, and in particular standing by the spirit of their agreement when they made right problems that became apparent with the visitor center after the builder’s warranty period had expired, providing financial, engineering, and personnel support to resolve the problems.

Date of Email: August 12, 2008
Application Reviewer: Gabriela Goldfarb, Consultant
Person Contacted: Jeffrey Chan, Fish Biologist, USFWS
Telephone/email: (360) 753-9542, Jeffrey_Chan@fws.gov
Areas of Expertise: Bull trout

Mr. Chan wrote, in response to my follow up question regarding FWS possibly seeking passage for bull trout at some future date:

Status is the same, we still aren't seeking passage at this point. We are still in the process of evaluating the population structure for the basin through genetic analysis. This has only occurred incrementally to date given the magnitude of the task. The final results of this evaluation should provided us an indication of whether or not passage is really necessary. One slight correction to the original statement below. The recovery team is actually evaluating whether passage should be established between Diablo and Ross Reservoirs (upper Skagit River system), since the historic upstream barrier (velocity barrier in Diablo Gorge) was likely at the present sight of Diablo Dam. And then we were also evaluating whether or not upstream passage between the lower Skagit River system and Gorge Reservoir is necessary.

My original email to him stated:

I am wrapping up my report for the Low Impact Hydropower Institute, and in reviewing reports from the original certification in 2003, realized I neglected to ask you a question related to bull trout. The reviewer of

Seattle City Light's original application in 2003 wrote:

The U.S. Fish and Wildlife Service (USFWS) is currently evaluating the need for passage in the Skagit Project for bull trout as part of the agency's recovery planning process, however passage may not necessarily be required (Chan pers. comm.). Bull trout were listed under the federal Endangered Species Act in 1999, after the FERC licensing process was completed. The agency is not currently considering passage options that would link the upper and lower Skagit River reaches, but is studying the possibility of providing passage linking the Gorge and Diablo reservoirs to the Ross Lake system.

You didn't mention it in our conversation a few weeks ago, but I just wanted to double check with you about whether FWS did seek (or is seeking) passage for bull trout.

Date of Email:	August 13, 2008
Application Reviewer:	Gabriela Goldfarb, Consultant
Person Contacted:	Chip Jenkins, Superintendent, North Cascades National Park Complex
Telephone/email:	(360)854-7205, chip_jenkins@nps.gov
Areas of Expertise:	Recreation

In an email Mr. Jenkins wrote:

Yes, SCL is living up to the FERC agreement. They have supported enhancements to recreational facilities and followed through on the commitments. I think they also deserve credit for not only adhering to the letter of the agreement but also the spirit of the agreement. we have a close cooperative working relationship with SCL in which literally on a daily basis the field staff of both of our organizations work together to address issues and generally help each other out. We not only hope, but will work, to continue to have this positive relationship.