



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office, 3190 - 160th Ave S.E. • Bellevue, Washington 98008-5452 • (206) 649-7000

SEATTLE  
CITY LIGHT  
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REFERRED

*Supt/ESD J*

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JAN - 8 1996

CERTIFIED MAIL

P 151 685 789

Mr. Gary Zarker, Superintendent  
Seattle City Light  
1015 Third Avenue  
Seattle, WA 98104-1198

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JAN 09 1996

SUPERINTENDENT'S OFFICE

Dear Mr. Zarker:

Re: Newhalem Creek Hydroelectric Project FERC No. 2705

Enclosed is Order No. DE 95WQ-N397. All correspondence relating to this document should be directed to the Enforcement Coordinator, Department of Ecology, Northwest Regional Office, 3190 160th Avenue, Bellevue, WA 98008-5452. If you have any questions concerning the content of the document, please call Robert Newman, telephone (206) 649-7046. The enclosed Order may be appealed. The appeal procedures are described in the Order.

Sincerely,

Carla J. Skog  
Enforcement Coordinator  
Water Quality Section

CJS:ll  
Enclosure

- cc: Secretary, FERC, Washington, D.C.
- Project Engineer, FERC, Portland, Oregon
- Mike Llewelyn, Water Quality Program Manager
- Carol Fleskes, Water Resources Program Manager
- Ray Hellwig, Shorelands and Water Resources Supervisor, NWRO
- Jeff Marti, Hydropower Coordinator, Water Resources Program
- Mark Jobson, AAG, Ecology Division
- Service List

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JAN 10 1996  
Environment & Safety  
Division

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DEPARTMENT OF ECOLOGY

IN THE MATTER OF GRANTING A )  
CERTIFICATION TO )  
Seattle City Light )  
in accordance with 33 USC )  
1341 [FWPCA § 401], RCW 90. )  
48.260 and WAC 173.201A )

ORDER  
No. DE 95WQ-N397

TO: Mr. Gary Zarker  
Superintendent  
Seattle City Light  
1015 Third Avenue  
Seattle, WA 98104-1198

On January 20, 1995, Seattle City Light filed an application with the State of Washington Department of Ecology requesting issuance of a certification under the provisions of 33 USC 1341 (FWPCA § 401) to be submitted with their application for a license to the Federal Energy Regulatory Commission for the Newhalem Creek Hydroelectric Project (FERC No. 2705) certifying that the project will comply with applicable provisions of 33 USC 1311, 1312, 1313, 1316, 1317 and with any other appropriate requirement of State law.

The Department of Ecology, exercising its authority pursuant to 33 USC 1341 and RCW 90.48.260, having investigated said application, makes the following findings:

1. The project has been reviewed for conformance with applicable water quality based, technology based, toxic or pretreatment effluent limitations as provided under 33 USC 1311, 1312, 1316, and 1317.
2. The project has been reviewed for conformance with the state water quality standards as provided for in Chapter 173-201A WAC authorized by 33 USC 1313 and by Chapter 90.48 RCW.
3. The project has been reviewed for conformance with the provision of all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

In view of the foregoing and in accordance with 33 USC 1341, RCW 90.48.260 and Chapter 173-201A WAC, IT IS ORDERED THAT:

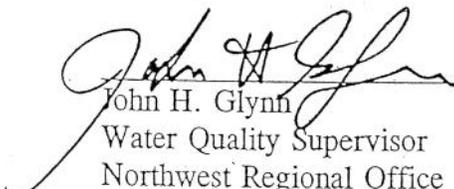
1. Subject to the attached conditions, certification under the provisions of 33 USC 1341 is granted to Seattle City Light for the Newhalem Creek Hydroelectric Project.

2. This certification does not exempt and is provisional upon compliance with the state's Coastal Zone Consistency Determination
3. This certification does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state and local agencies.
4. This certification will cease to be valid if the project is constructed and operated in a manner not consistent with the application for certification.
5. This certification will cease to be valid and the applicant must reapply with an updated application if five or more years elapse between the date of the issuance of this certification and commencement of construction and/or discharge for which the federal license or permit is being sought.
6. This certification will cease to be valid and the applicant must reapply with an updated application if the information contained in the application is voided by subsequent submittals to the federal agency.

Any person who fails to comply with any provision of this Order shall be liable for a penalty of up to ten thousand dollars for each day of continuing noncompliance.

Any person aggrieved by this Order may obtain review thereof by appeal, within thirty (30) days of receipt of this Order, to the Washington Pollution Control Hearings Board, Post Office Box 40903, Olympia, Washington 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Enforcement Section, Post Office Box 47600, Olympia, Washington 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

Dated JAN - 8 1996 at Bellevue, Washington

  
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John H. Glynn  
Water Quality Supervisor  
Northwest Regional Office  
Department of Ecology  
State of Washington

ORDER NO. DE 95WQ-N397

CERTIFICATION FOR THE NEWHALEM CREEK HYDROELECTRIC PROJECT  
FERC Project No. 2705  
CONDITIONS

I. General Requirements

- A. An Oil Spill Prevention, Containment, and Countermeasure Plan shall be prepared that covers all oil filled equipment to be installed and utilized at the site. This equipment includes the turbine/generator set, all oil filled transformers and capacitors to be installed at the project, and all mobile maintenance equipment to be utilized at the project.
- B. The construction activities shall comply with all conditions of the Washington Department of Fish and Wildlife Hydraulic Project Approval if required for project construction or operations.
- C. A Short Term Water Quality Standards Modification shall be obtained from the Department of Ecology prior to the start of any construction work in the waterway if required. The plan of work for the portion of the work within the waterway shall accompany the request. The request shall also include a copy of the Hydraulics Project Approval secured from the Washington Department of Fish and Wildlife for the project, and an explanation of how SEPA has been addressed for the project.
- D. At the point of discharge and within the bypass reach, the waters of Newhalem Creek shall not exceed the following criteria:
  - 1) All water quality criteria as specified in WAC 173-201A-030 for Class AA waters shall remain in effect. Nothing in this certification shall be construed as to allow the project operator to violate Washington State Water Quality laws (RCW 90.48, Chapter 173.201A WAC).
  - 2) Toxic conditions resulting in dead or dying fish are not allowed. If these conditions exist, operation and/or construction shall cease immediately and the Department of Ecology, Northwest Regional Office shall be notified immediately by telephone at (206) 649-7000, a 24 hour number.

II. Instream Flow

- A. The project shall comply with the instream flow requirements for Newhalem Creek as set forth by agreement with the Washington Department of Fish and Wildlife, U.S. Fish and Wildlife Service, Skagit System Cooperative and Department of Ecology. These flows are specified to be:

November 1 - March 31	40 cfs
April 1 - June 30	70 cfs
July 1 - July 31	50 cfs
August 1 - September 30	95 cfs
October 1 - October 30	75 cfs

Instream flows shall be maintained in any bypass reach or downstream of the project, sufficient to meet water quality goals and standards for the waterway, as provided in WAC Chapters 173-201A, 173-500, and Chapters 90.22 and 90.54 RCW.

B. Ramping Rate

The Licensee shall administer the ramping rates for the Newhalem Creek bypass reach in accordance with the following criteria:

<u>Season</u>	<u>Daylight Rates</u>	<u>Nighttime Rates</u>
Feb. 16 - June 15	No ramping allowed	2 inches per hour
June 16 - Oct. 31	1 inch per hour	1 inch per hour
Nov. 1 - Feb. 15	2 inches per hour	2 inches per hour

Daylight hours are defined as one hour before sunrise to one hour after sunset. Ramping rate refers to the allowable stage of decline.

A request to modify the ramping rate conditions of this certification may be submitted to the Department of Ecology after completion of a site specific ramping study conducted in cooperation with Ecology and state and federal fish and wildlife agencies and affected Tribes.

III. Oil Spill Prevention and Control

- A. RCW 90.56 prohibits any discharge of oil, fuel or chemicals into state waters, or onto land with a potential for entry into state waters.
- B. Visible floating oils released from construction or project operation shall be immediately contained and removed from the water.
- C. All oil, fuel or chemical storage tanks shall be diked and located on impervious surfaces so as to prevent spills from escaping to surface waters or ground waters of the state.
- D. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. Proper security shall be maintained to prevent vandalism.
- E. In the event of a discharge of oil, fuel or chemicals into state waters, or onto land with a potential for entry into state waters, containment and clean-up efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Clean-up shall include proper disposal of any spilled material and used clean-up materials.
- F. No emulsifiers or dispersants are to be used in waters of the state without prior approval from the Department of Ecology, Northwest Regional Office.
- G. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts, shall be reported immediately to the Department of Ecology, Northwest Regional Office at 649-7000 (24 hour phone number).

IV. Additional Requirements

This certification does not relieve the applicant from the responsibility of meeting applicable regulations of other agencies.