

August 26, 2024

Chris Townsend
Director, Natural Resources & Hydro Licensing
Seattle City Light
700 5th Avenue
Seattle WA 98124

RE: Estuary and Mainstem Habitat Proposal

Mr. Townsend,

Please accept this joint comment from Skagit County, the Skagit Drainage & Irrigation Districts Consortium LLC, and the Skagit Dike Partnership.

Thank you for providing us with a preview of Seattle City Light's ("SCL") Estuary and Mainstem habitat funding proposals. We understand that the proposed habitat funds involve SCL's commitment to \$75 million per fund, assuming a new 50-year license, or in annual terms, \$1.5 million per year. In addition, SCL proposes an additional \$50 million "Limiting Factors" fund, to be distributed pursuant to a limiting factors analysis to be prepared by SCL. You have not yet shared with us a formal written proposal or draft license articles, so our understanding is limited. As we have previously expressed, before we can fully and meaningfully comment on SCL's habitat proposals, we must see the draft license articles and related documents.

Skagit local governments should have been included in the discussion that led to SCL's funding proposals over the course of the last three years, because the activities to be undertaken using such funding centrally involve our critical infrastructure, taxable land base, regulatory authority, regulatory obligations, and much else. Nevertheless, we remain committed to helping the settlement parties achieve shared objectives.

In our recent conversations, you indicated that the Estuary and Mainstem habitat funds are, at their essence, seed money to assist with major habitat projects that the co-managers prioritize. In settlement discussions, you stated that the habitat funds do not envision any specific projects and no specific projects will be identified in the license articles.

At the outset of the FERC relicensing process, we committed to tribes and agencies that we would support a holistic plan that would deliver both (1) fish passage at the dams; and (2) appropriate habitat enhancement below the dams in Skagit County based on local/tribal cooperation. Because SCL has now made unequivocal commitment to fish passage at agency/co-manager discretion in the course of the settlement discussions, it is now appropriate to turn to the development of a mutually agreeable habitat funding proposal.

We have several minor technical concerns with the habitat fund proposals you've previewed. **Following are our specific comments.**

1. Settlement Agreement/License Article Must Make Clear That SCL Does Not Intend to Directly Acquire Land Or Assert FPA Condemnation Authority.

At the July 31, 2024 Comprehensive Table meeting, SCL legal counsel Matt Love stated that SCL has no intention of asserting Federal Power Act condemnation authority under the auspices of the proposed Mainstem, Estuary, or Limiting Factors habitat funds.

Under the current license, Seattle has acquired 10,000+ acres of land in Skagit County and has removed the land from local tax rolls. In the course of the settlement discussions, you have personally stated on many occasions that under the new license, the Seattle will no longer acquire land in Skagit County, but rather will provide funding to others to acquire land and carry out locally-supported projects. Please include language in the habitat fund proposals consistent with these representations.

2. Remove 1,300 Acre Reference From Estuary Proposal.

The Estuary fund proposal references a 1,300 acre target. Consistent with the information you provided us, the activities envisioned by the Estuary fund may involve but do not necessarily contemplate the acquisition and restoration of existing Skagit County farmland. One of the highest priority projects, McGlenn, has little to no land acreage because it is a connectivity project. Accordingly, it is unclear why an acreage target would be included in the Estuary proposal. For these reasons, the 1,300 acre target should be removed from the Estuary proposal.

3. Limiting Factors Analyses and Species Recovery Planning Should Not Occur Under The Auspices Of Seattle's Various Habitat Funds.

Planning for long-term management of the Skagit Delta and species recovery should not appropriately take place under the auspices of SCL's habitat funds. The Limiting Factors draft license article includes language stating that SCL will conduct a study to determine "whether additional habitat enhancement measures, beyond those already being implemented through the Skagit Riverscape Ecosystem Plan (REP) and the Skagit Estuary Habitat Enhancement Program... would contribute to increased anadromous fish production" and that SCL will "develop a plan to identify additional habitat enhancement measures, and a schedule for implementation of such measures". This seems inconsistent with your representation that the habitat funds are intended to be seed money to help initiate locally-supported projects prioritized by co-managers and carried out by others.

As we have repeatedly made clear, dealing with the Skagit/Samish Delta is a complex task that involves questions of regulatory certainty, sea level rise, farmland preservation, infrastructure resilience and much else – which, you acknowledge, can only be properly considered through a locally led and transparent process. With our infrastructure, regulatory authority and federal regulatory compliance squarely at issue, it is critically important that long range planning for the Skagit/Samish Delta be driven by Skagit local and tribal governments.

The ongoing Estuary Solutions Group and proposed Integrated Plan accomplish this task. It is duplicative and inefficient to form a group under the authority of a FERC license to inform this work, and we do not support such an effort.

It is our understanding that the 2005 SCRPs requires review and updating. Among other things, the 2005 SCRPs requires nothing of SCL's Skagit Project in terms of fish passage. We are concerned that the Limiting Factor fund proposes that SCL will determine the limiting factors to species recovery. A hydroelectric dam operator should not be granted the authority to determine what is best for Skagit salmon. Rather, this is a question for agencies charged with species recovery, in close consultation with Skagit tribes. We request that you strike this language from all relevant documents.

4. Conclusion.

While we have yet to receive draft settlement language reflecting SCL's Estuary proposal, you have repeatedly made clear that SCL strongly hopes to achieve settlement by October of this year. With this in mind we write to promptly offer our thoughts and concerns, with the expectation that you will address our concerns as settlement/license article language is drafted. These comments are not provided in lieu of comments on the forthcoming draft license articles. We request and expect that we be given a meaningful and early opportunity to review and comment on the draft license articles, once made available, and that our comments would be considered and incorporated.

Thank you,

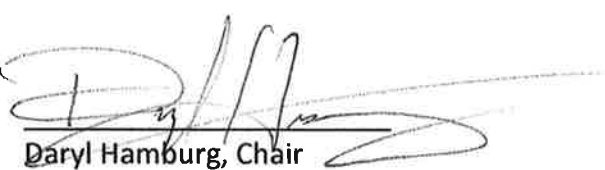
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