



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

August 5, 2020

Vincent Yearick, Director of Hydropower Licensing
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426
(202) 502-6174
vince.yearick@ferc.gov

Dear Mr. Yearick,

In the 1970's, the federal government conveyed approximately 5,500 acres of land near Sitka (Green Lake parcel) to the State of Alaska under the Statehood Act. The patent contained language including a federal power site reservation on areas within the parcel below 450' in elevation.

The Green Lake Hydroelectric Project was subsequently constructed, utilizing water flow from Green Lake inside the parcel. The State then conveyed the Green Lake parcel to the City and Borough of Sitka (CBS) as part of the latter's municipal land selections from the State.

While the federal withdrawal for the Green Lake project encompasses 1,281 acres, the facility itself, including reservoir, occupies only about 200 acres. CBS would like to have the option for development of the Green Lake parcel lands outside the area occupied by the hydro project.

The CBS respectfully requests that the Bureau of Land Management and the Federal Energy Regulatory Commission vacate Power Site Classification No. 459 and the Section 24 withdrawal, respectively. Otherwise, the withdrawals will remain in effect and subject to the restrictions of the power site reservation created by the patent.

Please see the addendum to this letter for a historical analysis of the parcel.

Thank you for your consideration and response.

Respectfully,



John M. Leach
Municipal Administrator

cc: Nicholas Jayjack, Deputy Director of Hydropower Licensing
John Katz, Deputy Associate General Counsel, Energy Projects
CarLisa Linton-Peters, Director of Hydropower Administration and Compliance
Hillary Berlin, Deputy Director of Hydropower Administration and Compliance
Andrea Claros, Chief of the Environmental and Project Review Branch

Attachment: As mentioned

Addendum:

On approximately March 17, 1969, BLM created Power Site Classification No. 459, approximately 250 acres, following an application by USGS. 34 Fed. Reg. 5660 (Mar. 26, 1969).

On September 19, 1977, the application for the Green Lake Project No. 2818 created a Section 24 withdrawal of approximately 1,474 acres, which overlaps, at least in part, with the 250-acre Power Site Classification No. 459. 43 Fed. Reg. 7355—56 (Feb. 22, 1978).

On June 5, 1978, at the request of the State of Alaska in order to select approximately 5,693 acres of lands for patent under Section 6(a) of the Alaska Statehood Act of 1958, the Commission:

1. Determined that the value of approximately 2,540 acres, including 1,281 acres of federal lands ultimately included within the project boundary, would not be injured or destroyed for the purposes of power development, subject to the provisions of section 24, and,
2. Vacated the withdrawal of approximately 214 acres proposed, but no longer needed, for transmission for the Green Lake Project. 43 Fed. Reg. 25,366–67 (June 12, 1978).

On July 14, 1978, BLM opened approximately 2,756 acres of federal lands for selection by the State of Alaska subject to a section 24 reservation for those lands below an altitude of 450 feet.

On July 28, 1978, BLM issued tentative approval of approximately 5,705 acres of lands selected by the State of Alaska subject to a section 24 reservation for those lands below an altitude of 450 feet, with the final patent to be issued pending official survey of the selected lands. See 43 C.F.R. § 2627.3(b)(3) (2019) (requiring tentative approval and survey prior to issuing final patent for selected lands).

On May 4, 1995, BLM issued the final patent for 5,555.75 acres of lands selected by the State of Alaska, subject to a section 24 reservation for those lands below an altitude of 450 feet.

Three land use restrictions are at issue:

1. a withdrawal created by BLM in or around 1969 (Power Site Classification No. 459),
2. a withdrawal created by the application for the Green Lake Project pursuant to the first part of section 24 of the Federal Power Act (section 24 withdrawal) (collectively section 24 lands), and
3. the reservation created by BLM's patent opening both withdrawals to entry subject to the second part of section 24 (power site reservation).

The power site reservation applies to all patented section 24 lands below an altitude of 450 feet, so it applies to any of the approximately 2,540 acres of section 24 lands opened by the Commission's June 5, 1978 determination, including 1,281 acres ultimately included within the project boundary, that are below 450 feet. Although the power site reservation in the final patent, unlike in the tentative approval, applies to all section 24 lands below an altitude of 450 feet "for Power Project No. 2818," it goes on to list the same lands reserved in the tentative approval, suggesting the reservation applies to all patented section 24 lands below an altitude of 450 feet, not just those part of the Green Lake Project.

The section 24 withdrawal created by the application for the Green Lake Project will remain in effect until otherwise directed by the Commission or Congress. The Commission may vacate a section 24 withdrawal if not all the lands included in the original application are part of the project as it is finally constructed.

Commission records indicate that the project boundary for the Green Lake Project includes 1,281 acres that are subject to the section 24 withdrawal. The Commission would not consider vacating the withdrawal for any of those lands unless it determined that the lands are not needed for project purposes. To allow the Commission to make that determination, the licensee would need to file a request for a license amendment to remove the lands from the project boundary and demonstrate why they are not needed for operation and maintenance of the project, or for any other project purposes.