

UNITED STATES OF AMERICA 114 FERC ¶62,188
FEDERAL ENERGY REGULATORY COMMISSION

Fox River Paper Co. and N.E.W. Hydro, Inc.

Project No. 7264-017

ORDER MODIFYING AND APPROVING INVASIVE SPECIES MONITORING
PLAN PURSUANT TO ARTICLE 405

(Issued February 24, 2006)

On January 23, 2006, the Fox River Paper Co. and N.E.W. Hydro, Inc. (licensees) filed an Invasive Species Monitoring Plan pursuant to Article 402 of the license¹ for the Middle Appleton Hydroelectric Project (FERC No. 7264). The project is located on the Lower Fox River, in Outagamie County, Wisconsin.

LICENSE REQUIREMENTS

Article 405 of the license requires the licensees to file, for Commission approval, a plan to monitor and control invasive species such as purple loosestrife (*Lythrum salicaria*), Eurasian water milfoil (*Myriophyllum spicatum*) and the zebra mussel (*Dreissena polymorpha*), at the project, within six months of license issuance. The plan should be prepared after consultation with the Wisconsin Department of Natural Resources (Wisconsin DNR) and the U.S. Fish and Wildlife Service (FWS).

The plan shall include, but not be limited to, the following: (1) a description of the monitoring method; (2) frequency of monitoring; (3) a schedule for filing monitoring reports with Wisconsin DNR, FWS, and the Commission; and (4) a description of and implementation schedule for providing public information about the species.

LICENSEES' PLAN

The licensees propose to visually inspect the entire shoreline of the impoundment between the third full week of July and the end of the first full week in August to document the occurrence of purple loosestrife and Eurasian water milfoil in project

¹ 112 FERC ¶ 62,187 (2005).

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waters, annually through year 2008 and every 2 years thereafter during even-numbered years.

The licensees state that the occurrences of purple loosestrife and Eurasian watermilfoil would be marked on maps in the field using indelible markers. Eurasian milfoil plants would be examined for signs of weevil damage and observations would be recorded. The area and percent cover of each purple loosestrife stand identified would be determined, and average plant density would be estimated. Stand perimeter, relative mat density, and average mat thickness of Eurasian watermilfoil would be recorded. A dip net or rake would be used to obtain samples for milfoil species identification.

The licensees propose that inspections of hard surfaces that are normally submerged would be conducted during any drawdown of the impoundment and inspections of construction equipment from other infested waters of the state would be required on all contractor work specifications for the project. The licensees propose to inspect the project structures on a monthly basis. The licensees state that if the presence of zebra mussel colonies is confirmed, zebra mussel monitoring at the project would be discontinued and Wisconsin DNR would be notified.

Although no invasive species have been documented at the project thus far, the licensees propose to consult with the FWS and Wisconsin DNR for technical assistance in implementing control measures should the need arise. The licensees also propose to provide information on invasive species to the City of Appleton Parks and Recreation Department for public distribution.

AGENCY COMMENTS

A draft of the Invasive Species Monitoring Plan was distributed to the FWS and the Wisconsin DNR on November 17, 2005. There was no response for comments from either agency.

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DISCUSSION

As stated in Article 405, the licensees' plan is required to include a schedule for filing monitoring reports with the Wisconsin DNR, FWS and the Commission. We recommend that the licensees allow the agencies 30 days to review the report and provide comments and/or recommendations before filing the report with the Commission. The final report should be filed with the Commission by December 1, of 2006, 2007 and 2008 and every two years thereafter during even-numbered years.

The plan should help determine if invasive species are affecting other fish and wildlife populations in the project area. The licensees' Invasive species Monitoring Plan for the Middle Appleton Hydroelectric Project meets the requirements of Article 405 with the above modification and, therefore, should be approved.

The Director orders:

(A) The Fox River Paper Co.'s and N.E.W. Hydro, Inc.'s (licensees) Invasive Species Monitoring Plan pursuant to article 405 for the Middle Appleton Hydroelectric Project, filed on January 23, 2006, as modified by ordering paragraph (B), is approved.

(B) The licensees shall file an annual invasive species monitoring report with the Commission, including comments and/or recommendations from U.S. Fish and Wildlife Service and Wisconsin Department of Natural Resources and the licensees' response to those comments. The report should be filed with the Commission by December 1 of 2006, 2007, 2008, and every 2 years thereafter during even-numbered years. The licensees shall allow the FWS and Wisconsin DNR 30 days to provide comments and/or recommendations on the report. If the licensees do not adopt a recommendation, the report shall include the licensees' reasons, based on project specific information. The Commission reserves the right to require modifications to the monitoring plan based on the licensees' monitoring reports.

(C) The licensees shall file an original and eight copies of any filings required by this order with:

The Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.3
888 First Street, N.E.
Washington, D.C. 20426

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(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days from the date of issuance of this order, pursuant to 18 CFR § 385.713.

George H. Taylor
Chief, Biological Resources Branch
Division of Hydropower Administration
and Compliance