

143 FERC ¶ 62,176
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Upper Peninsula Power Company

Project No. 1864-173

ORDER APPROVING TEMPORARY VARIANCE FROM MONITORING
REQUIREMENTS OF ARTICLE 411 NUISANCE PLANT CONTROL PLAN AND
ARTICLE 414 WILDLIFE AND LAND MANAGEMENT PLAN FOR THE
VICTORIA DEVELOPMENT

(Issued June 6, 2013)

1. On April 19, 2013, Upper Peninsula Power Company (licensee) filed a request for a temporary variance from the monitoring requirements under its approved Nuisance Plant Control Plan and Wildlife and Land Management Plan (plans) pursuant to articles 411 and 414, respectively, of its license for the Bond Falls Project (FERC No. 1864).¹ The requested temporary variance in monitoring activities is specific to the project's Victoria development due to spillway improvement work at that location. The project is located on the Ontonagon River in Ontonagon and Gogebic Counties, Michigan, and Vilas County, Wisconsin, partially on lands within the Ottawa National Forest.²

BACKGROUND

2. Under the Nuisance Plant Control Plan, pursuant to article 411, the licensee is required to annually survey for Eurasian water milfoil and purple loosestrife during the summer.^{3,4} The licensee's approved Wildlife and Land Management Plan, pursuant to

¹ See Order Approving Settlement and Issuing New License, 104 FERC ¶ 62,135 (issued August 20, 2003).

² The project's Bond Falls development occupies 73.5 acres of land within the Ottawa National Forest.

³ See Order Modifying and Approving Nuisance Plant Control Plan Pursuant to Article 411, 110 FERC ¶ 62,173 (issued February 24, 2005).

⁴ See Order Modifying and Approving Comprehensive Five-year Monitoring Plan and Approving Five-year Report for Eurasian Water Milfoil, 135 FERC ¶ 62,111 (issued May 5, 2011).

article 414, requires the licensee to deploy and annually monitor the use of common loon nesting structures, and to monitor osprey use of platforms during the summer.⁵

LICENSEE'S PLAN

3. The licensee is performing spillway improvement work at the Victoria development in summer 2013 that will require a significant drawdown of the Victoria Reservoir. In anticipation of a significant increase in flow releases caused by the drawing down of the reservoir, the licensee is requesting a temporary variance from the monitoring requirements of the two plans. The licensee states that potentially unsafe conditions could be created for workers during monitoring activities while spillway improvement work is occurring.

4. Therefore, the licensee is proposing to stop monitoring for Eurasian water milfoil and purple loosestrife during the summer of 2013 at the Victoria development and to neither deploy nor monitor one common loon nesting structure, nor monitor osprey platforms for the 2013 summer surveying season in Victoria Reservoir. The monitoring season for both nuisance plants and nesting/use of platforms by birds coincides with spillway improvement activities. The licensee plans to resume monitoring at the Victoria development in 2014 and annually thereafter through the term of the license.

CONSULTATION

5. The licensee consulted with members of the Bond Falls Implementation Team concerning the request for temporary variance from the plans during their annual meeting on February 20, 2013. Minutes from this meeting were filed with the Commission on June 3, 2013. In an e-mail dated February 26, 2013, the licensee also sought comments from the Michigan Department of Natural Resources, Wisconsin Department of Natural Resources, Keweenaw Bay Indian Community, the U.S. Forest Service, and the U.S. Fish and Wildlife Service. No comments were received from these entities regarding the proposed temporary variance.

DISCUSSION AND CONCLUSION

6. The proposed temporary variance would affect nuisance plant monitoring, the deployment and surveying of one common loon nesting platform, and osprey platform use monitoring for 2013 at the Victoria development as required under the plans. Because the drawdown conditions associated with the spillway improvement project

⁵ See Order Modifying and Approving Wildlife and Land Management Plan Pursuant to Article 414, 110 FERC ¶ 62,100 (issued February 4, 2005).

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activities could lead to unsafe boating conditions for workers, approval of a temporary variance from monitoring at the Victoria development is appropriate.

The Director orders:

(A) Upper Peninsula Power Company's request, filed April 19, 2013, for a temporary variance from the annual monitoring requirements of the Nuisance Plant Control Plan and Wildlife and Land Management Plan, pursuant to articles 411 and 414, respectively, of the license for the Bond Falls Project in 2013, is approved.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the FPA, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2012). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Steve Hocking
Chief, Environmental Review Branch
Division of Hydropower Administration
and Compliance

Document Content(s)

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