

139 FERC ¶ 62,184
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of Kaukauna, Wisconsin

Project No. 2677-026

ORDER MODIFYING AND APPROVING INVASIVE SPECIES
MONITORING AND CONTROL PLAN

(Issued June 6, 2012)

1. On March 30 2012, the City of Kaukauna, Wisconsin (licensee) filed its invasive species monitoring and control plan for the Badger-Rapide Croche Hydroelectric Project No. 2677, pursuant to license article 401 and the Wisconsin Department of Natural Resources section 401 Water Quality Certification Condition (WQC) No. 8.¹ The project is located on the Fox River in Outagamie County, Wisconsin, and includes two developments - the Badger and Rapide Croche developments. The Badger Development is located in the City of Kaukauna at the U.S. Army Corps of Engineers' (Corps) Kaukauna dam. The Rapide Croche Development is located in the Town of Buchanan at the Corps' Rapide Croche dam.

LICENSE REQUIREMENTS

2. Article 401 requires the licensee to file plans, for Federal Energy Regulatory Commission (Commission) approval, pursuant to various conditions in the Wisconsin WQC. WQC Condition No. 8 requires the licensee to develop an invasive species monitoring and control plan (Plan) subject to the approval of the Commission and the Wisconsin Department of Natural Resources (WDNR) within one year of license issuance. The Plan should include measures to monitor and control Japanese knotweed, garlic mustard, buckthorn, Eurasian water milfoil, purple loosestrife, phalaris, phragmites, and dreissenid mussels.

3. In addition, the licensee must monitor for any "prohibited" species as required by NR 40, Wisconsin Administrative Code. "Prohibited invasive species" or "prohibited species" means an invasive species that the department at the time of listing under s. NR 40.04 (2), has determined is likely to survive and spread if introduced into the state, potentially causing economic or environmental harm or harm to human health, but which is not found in the state or in that region of the state where the species is listed as

¹ Order Issuing New License issued May 18, 2011 (135 FERC ¶ 62,149).

prohibited in s. NR 40.04 (2), with the exception of isolated individuals, small populations, or small pioneer stands of terrestrial species, or in the case of aquatic species, that are isolated to a specific watershed in the state or the Great Lakes, and for which statewide or regional eradication or containment may be feasible.

LICENSEE'S PLAN

4. The licensee's Plan provides a detailed description and life-history, with colored photographs, of the listed WQC Condition No. 8 invasive species for monitoring: Japanese knotweed (*Fallopia japonica*); garlic mustard (*Alliaria petiolata*); buckthorn (*Rhamnus cathartica*); Eurasian water milfoil (*Myriophyllum spicatum*); purple loosestrife (*Lythrum salicaria*); phalaris (*Phalaris arundinacea* or reed canary grass); phragmites (*Phragmites australis* or common reed); and dreissenid mussels (*Dreissenidae*); a family of bi-valve mollusks that includes the visually-similar quagga mussel (*Dreissena bugensis*), zebra mussel (*Dreissena polymorpha*), and false darkmussel (*Mytilopsis leucophaeata*). In addition, the licensee's Plan provides for the monitoring for any "prohibited" species as required under NR 40, Wisconsin Administrative Code.
5. The licensee's Plan provides maps of the project areas to be monitored for invasive species. The seasonal monitoring timeframe for each identified invasive species is presented in the Plan. All monitoring is to be conducted by qualified ecologists familiar with the life history and visual characteristics of the invasive species. Monitoring will be conducted every year from 2013 through 2015, and every other following year, in accordance with the seasonal timeframe presented. All monitoring will use aerial orthophotographs to support the mapping of invasive plant populations in the field. Data concerning the locations of all identified invasive species will be collected using a Global Positioning System (GPS) unit.
6. Mussels will also be monitored for during April - September monthly rakings of the Badger and Rapide Croche development trashracks. The trashracks at both developments are cleaned using a long special-purpose rake, offering an opportunity to monitor for the invasive mussels. Eurasian water milfoil will be monitored every fourth year in accordance with field procedures, sampling tools, and data analysis, and reporting protocols of the WDNR. A cumulative occurrence map will be produced each year of monitoring that includes the locations of all detected invasive species that year.
7. The licensee's Plan provides for measures to increase public awareness and education of invasive species in the project area. The licensee will post a WDNR invasive species sign at the new Rapide Croche impoundment boat landing, in addition to the existing WDNR invasive species sign at the City boat landing (Riverside Marina) upstream of Badger Dam. The licensee will also post signs for Viral Hemorrhagic Septicemia (VHS) at the two boat landings, using current WDNR signage graphics to alert anglers and boaters of this deadly infectious fish disease. The licensee will provide

invasive species brochures and publications at its customer service office. The licensee's Plan outlines coordination with the Outagamie County Highway Department and its highway maintenance staff concerning the presence of any of the listed invasive species on highway lands.

8. The licensee's Plan provides for the control of the spread of invasive species through Adaptive Management practices in consultation with WDNR or the local invasive species coordinator of the University of Wisconsin - Extension or Outagamie County. The Plan outlines the procedures for the Adaptive Management strategy that will be followed during each monitoring year. The Plan provides an extensive summary of measures, compiled from the best management practices for the control of each invasive species.

9. The licensee's Plan provides for the submittal of a monitoring report to the WDNR Coordinator by December 20 of each monitoring year. The report is to include narrative accounts of any detected presence of the listed invasive species, supplemented by an orthophotograph-based map showing the relevant locations. The map will also show the locations of the aquatic Eurasian water milfoil monitoring, as well as labels for roads and other features to assist in orientation and use. Population limits or locations of invasive species are to be based on Geographic Information System (GIS) coordinates. The monitoring reports will also include counts of the number brochures and publications handed-out to the public.

AGENCY CONSULTATION

10. The licensee provided the draft invasive species monitoring and control plan to the WDNR and the U.S. Fish and Wildlife Service on January 12, 2012, for review and comment. All comments and recommendations were addressed in email correspondences and during a teleconference held on February 29, 2012.

DISCUSSION

11. The licensee's Plan proposes to submit a monitoring report to the WDNR Coordinator by December 20 of each monitoring year. A copy of the monitoring report should also be submitted to the U.S. Fish and Wildlife Service for their review and comment. In order to keep the Commission apprised of the progress of the licensee's invasive species monitoring and control plan program, the licensee shall file a report with the Commission, for each year in which monitoring occurs. The licensee should allow the resource agencies a minimum of 30 days to provide review and comment on the monitoring report before filing the report with the Commission. The monitoring report, along with any comments and recommendations by the resource agencies, shall be filed with the Commission by January 31, of the year following monitoring.

12. The licensee's invasive species monitoring and control plan, filed March 30, 2012, fulfills the requirements of license article 401 and WDNR WQC Condition No. 8, and, as modified, should be approved.

The Director orders:

(A) The City of Kaukauna, Wisconsin's (licensee) invasive species monitoring and control plan, filed March 30, 2012, pursuant to license article 401 and Wisconsin Department of Natural Resources' Water Quality Certification Condition No. 8, as modified by paragraph (B), is approved.

(B) The licensee shall conduct its initial monitoring survey for invasive species in 2013, with subsequent annual surveys to be conducted in 2014 and 2015, and every other following year. The licensee shall file the initial annual monitoring report with the Wisconsin Department of Natural Resources and the U.S. Fish and Wildlife Service by December 20, 2013, with subsequent annual monitoring reports in 2014 and 2015. The licensee shall allow the resource agencies a minimum of 30 days to provide comments and/or recommendations on the reports. Each annual monitoring report should be filed with the Commission including any comments and/or recommendations from the resource agencies and the licensee's response to the agency comments by January 31, 2014, with subsequent annual monitoring reports in 2015 and 2016. If the licensee does not adopt a recommendation, the report shall include the licensee's reasons, based on project-specific information. The Commission reserves the right to require modifications to the monitoring and control plan based on the licensee's monitoring reports or new information, as it becomes available.

(C) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2006), and by the Commission's regulations at 18 C.F.R. § 385.713 (2011). 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.

Thomas J. LoVullo
Chief, Aquatic Resources Branch
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Administration and Compliance

Document Content(s)

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