

121 FERC ¶ 62,153
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Thilmany Papers, LLC

Project No. 4914-022

ORDER MODIFYING AND APPROVING NUISANCE PLANT CONTROL PLAN
PURSUANT TO ARTICLE 406

(Issued November 30, 2007)

On October 5, 2006, and revised on October 15, 2007, Thilmany Papers, LLC (licensee) filed a Nuisance Plant Control Plan pursuant to article 406 of the license for the De Pere Hydroelectric Project (FERC No. 4914).¹ The project is located at the Army Corps of Engineer's De Pere Lock and Dam on the Fox River in the City of De Pere in Brown County, Wisconsin.

LICENSE REQUIREMENTS

Article 406 requires the licensee to file a Nuisance Plant Control Plan to monitor purple loosestrife (*Lythrum salicaria*) and Eurasian water milfoil (*Myriophyllum spicatum*) in project waters. The Nuisance Plant Control Plan is required to include: 1) a description of the method of monitoring; 2) a description of the frequency of monitoring; 3) a description of the specific measures that the licensee will take to increase public awareness of how Eurasian watermilfoil (EWM) is spread and measures the public can take to prevent the spread of this species; 4) a description of procedures that would be used for obtaining technical assistance and input from the Wisconsin Department of Natural Resources (WDNR) and U.S. Fish and Wildlife Service (FWS); and 5) a schedule for providing the monitoring results to the WDNR and FWS.

LICENSEE'S PLAN

The licensee reports that because of the project's small size and limited scope, it is possible that neither one of the species listed above is present within the project's associated waters. The licensee proposes to conduct a one-time baseline survey in late July or early August 2008 to determine whether purple loosestrife or EWM are present in project waters. The licensee proposes to survey for purple loosestrife by visually

¹ See Order Issuing Subsequent License, 110 FERC ¶ 62,239 (Issued March 10, 2005).

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inspecting the shoreline and shallow areas of the project waters. Additionally, the licensee proposes to survey for EWM by using a point-intercept method routinely used by the WDNR. The licensee proposes to survey EWM in a 14 acre area outside of the project boundary extending 400 feet downstream of the dam. The licensee proposes to use a combination of rake tows and diving to search for EWM at each survey point. If EWM is detected, the licensee proposes to map the location of the colony in GIS format and record an estimate of its aerial coverage.

Within 6 months of completing the survey, the licensee proposes to file a report documenting the findings of the survey with the resource agencies. The licensee proposes that after completing the baseline survey, no additional monitoring would be conducted. The licensee agrees to post signage describing the history and background of the species listed in this plan at the public access point located east of the project waters.

AGENCY COMMENTS

By email dated October 2, 2006, the FWS commented that the results of the 2006 baseline studies should be included in the plan as well as a description of the control measures and their schedule of implementation. However, the licensee did not conduct any surveys in 2006. Additionally, article 406 does not require the plan to include control measures, only provisions to consult with WDNR and FWS should the agencies deem control measures necessary. The licensee did not receive any follow-up comments after filing the revised plan.

DISCUSSION

In order to keep the Commission apprised of the results of the monitoring, the licensee should also file the survey report with the Commission, by March 1, 2009, after filing the report with WDNR and FWS. The licensee should include documentation of consultation with the agencies and copies of any comments the agencies may provide regarding the report.

At this time, the licensee should plan on continuing to survey for purple loosestrife and EWM in 2009. However, should the results of the 2008 baseline survey demonstrate that there is no available habitat for these plants at the project, the licensee may then request permission from the Commission, after consultation with WDNR and FWS, to discontinue the surveys.

Implementation of the licensee's revised Nuisance Plant Control Plan should help ensure that aquatic invasive plants are monitored and, if necessary, controlled at the De

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Pere Project. The licensee's revised Nuisance Plant Control Plan meets the requirements of article 406 and, as modified, should be approved.

The Director orders:

(A) Thilmany Papers, LCC's (licensee's) Nuisance Plant Control Plan filed on October 5, 2006 and revised on October 15, 2007, pursuant to license article 406 for the De Pere Hydroelectric Project (FERC No. 4914), as modified in paragraph (B), is approved.

(B) The licensee shall file the 2008 Nuisance Plant Survey report with the Commission, by March 1, 2009, after filing the report with Wisconsin Department of Natural Resources and U.S. Fish and Wildlife Service. The licensee shall include documentation of consultation with the agencies and copies of any comments or recommendations with the report.

(C) 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