

150 FERC ¶ 62,102
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Wisconsin Electric Power Company

Project No. 2431-086

ORDER AMENDING LICENSE TO DISCONTINUE WATER QUALITY
MONITORING UNDER ARTICLE 405

(February 12, 2015)

1. On November 8, 2012, Wisconsin Electric Power Company (license) filed a request with the Federal Energy Regulatory Commission (Commission) to amend its license for the Brule Hydroelectric Project (FERC No. 2431) to discontinue all continuous water quality monitoring under license Article 405. The project is located on the Brule River in Florence County, Wisconsin and Iron County, Michigan.

BACKGROUND

2. Pursuant to license Article 405, the licensee is required to monitor dissolved oxygen (DO) and water temperature immediately downstream of the Brule dam during June through September, for a period of five years and once every five years thereafter. The purpose of the monitoring is to ensure that streamflow downstream of the dam maintains certain standards for DO concentration and temperature when river discharges are greater than or equal to the 95 percent exceedance flow. In general, DO concentrations in the project tailwater should be no less than 5 milligrams per liter (mg/L), and the monthly average temperatures downstream should be no greater than the limits specified in the article.

3. On September 10, 1997, the Commission approved the licensee's Water Quality Monitoring Plan.¹ In 1999, based on water quality data collected in 1997 and 1998, which indicated that water quality did not deviate from the DO and temperature parameters specified in Article 405, the licensee requested to suspend monitoring from 1999 to 2001. On April 15, 1997, the Commission issued Order Amending Water

¹ Order Modifying and Approving Water Quality Monitoring Plan. 80 FERC ¶ 62,215.

Quality Monitoring Plan, which suspended water quality monitoring from 1999-2001.² Monitoring resumed in 2002, and is repeated every five years thereafter.

LICENSEE'S REQUEST

4. The intent of the monitoring was to show that the project did not affect water quality as the project moved from a peaking operation to a run-of-river operation. The licensee states that they have successfully operated the project run-of-river for over 15 years and have not caused any water quality issues. In the interest of reducing workload and conserving licensee and agency resources, the license is requesting an amendment of Article 405 to discontinue all continuous water quality monitoring at the project.

5. The licensee provided a summary of the data collected in 1997, 1998, 2002 and 2007. The data shows that temperature and DO was consistently above the parameters specified in Article 405, with only one exception. There was one brief incident in 2007 where DO dropped below 5 mg/L when the project was taken offline during barrier net cleaning.

CONSULTATION

6. The licensee states that they discussed with the agencies discontinuation of all water quality monitoring during several license implementation meetings. On June 5, 2012, the licensee sent a request to the Michigan Department of Natural Resources, the Wisconsin Department of Natural Resources and the U.S. Fish and Wildlife Service to discontinue all water quality monitoring. The request included a summary of data collected since implementation of the licensee's water quality monitoring plan. All three agencies concurred with the licensee's request.

7. During a June 27, 2012 consultation meeting, the Wisconsin Department of Natural Resources requested that when the project is relicensed, or if significant changes in operation at the project were to occur, the existing water quality plan should be revisited and revised as needed.

DISCUSSION AND CONCLUSION

8. The licensee monitored water quality downstream of the Brule dam from June through September in 1997, 1998, 2002 and 2007. We reviewed the licensee's annual reports, and conclude that operation of the project results in compliance with water quality standards.

² 87 FERC ¶ 62, 059.

9. We agree with the Wisconsin Department of Natural Resources that when the project is relicensed, or if significant changes in operation at the project were to occur, the existing water quality plan should be revisited and revised as needed. If during the term of the existing license, the plan needs revision and reimplementation, the licensee should develop its revised plan in consultation with agencies and submit the plan to the Commission for approval, pursuant to the requirements of license Article 405.

10. The intent of the water quality monitoring was to ensure that streamflow downstream of the dam maintains certain standards for DO concentration and temperature. Based on the monitoring results, it is evident that the project is able to operate run-of-river while meeting water quality standards. Accordingly, the licensee's request to discontinue water quality monitoring should be approved.

The Director orders:

(A) Wisconsin Electric Power Company's (licensee) request to amend its license to discontinue water quality monitoring under Article 405 of the Brule Hydroelectric Project license, filed with the Federal Energy Regulatory Commission (Commission) on November 8, 2012, as modified in ordering paragraph (B), is approved.

(B) The Commission reserves its authority to require the licensee to revise or otherwise develop a Water Quality Monitoring Plan based on any changes in project operation, construction of new facilities, changes in any physical features of the project, or other project changes that could affect water quality. The plan, if needed, must be developed in consultation with the Michigan Department of Natural Resources, the Wisconsin Department of Natural Resources and the U.S. Fish and Wildlife Service, and submitted to the Commission for approval under Article 405.

(C) 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 Federal Power Act, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2014). 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 will constitute an acceptance of this order.

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Document Content(s)

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