

158 FERC ¶ 62,150

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Wisconsin Electric Power Company

Project No. 2486-010

ORDER APPROVING DISCONTINUATION OF WATER QUALITY MONITORING
UNDER ARTICLE 418

(Issued March 1, 2017)

1. On November 8, 2012 and supplemented on February 7, 2017, Wisconsin Electric Power Company, filed a request with the Federal Energy Regulatory Commission (Commission) to amend its Water Quality Monitoring Plan¹ for the Pine Hydroelectric Project No. 2486.² The project is located on the Pine River, in Florence County, Wisconsin.

Background

2. Article 418 requires the licensee to file a Water Quality Monitoring Plan (Plan), for Commission approval, to monitor dissolved oxygen (DO), pH, and water temperature of the Pine River downstream of the project every five years. The purpose of the Plan is to ensure that waters below the project, as measured immediately downstream of the project tailrace, maintain a DO concentration of at least 5.0 milligrams per liter, a pH of between 6.0 and 9.0 with no change greater than 0.5 units outside the estimated seasonal maximum and minimum, and a water temperature not to exceed 89 degrees Fahrenheit. The licensee is to prepare the plan after consultation with the Wisconsin Department of Natural Resources (Wisconsin DNR) and the U.S. Fish and Wildlife Service (FWS).

3. The licensee filed the Plan with the Commission on June 13, 1996 and the Commission approved it with modifications on September 25, 1996. The licensee conducted the monitoring activities under the Plan as required from the onset of the Plan's approval and by letter dated November 8, 2012, filed a request with the

¹ Order Modifying and Approving Water Quality Monitoring Plan (76 FERC ¶ 62,231), issued September 25, 1996.

² Order Issuing New License (73 FERC ¶ 61,346), issued December 19, 1995.

Commission to amend the Plan as to discontinue all water quality monitoring at the project. The licensee provided its justification for its request and included documentation of consultation with the consulting parties to the Plan, the Wisconsin DNR and the FWS, both of which supported the licensee's request. The licensee's request was highlighted when the licensee contacted Commission staff on October 17, 2016 to follow-up on its 2012 request. Following a discussion with Commission staff, the licensee re-consulted with the Wisconsin DNR and FWS to confirm that the agencies were still in agreement with the request and then re-filed its request with the Commission on February 7, 2017. The details of its request are explained below.

Licensee's Request

4. The licensee is requesting to discontinue all water quality monitoring under the Plan on the basis that the previous 15 years' worth of monitoring under the Plan has not identified any water quality issues downstream of the project. Water quality at the project remains consistently above the requirements specified in Article 418 and no concerns regarding water quality at the project exist at this time, according to the licensee. Given this, the licensee requests to amend the Plan to relieve it of this monitoring requirement.

Agency Consultation

5. The licensee provided its request to the Wisconsin DNR and FWS on January 9, 2012, which both agencies concurred with by letter dated January 26, 2012. The agencies reiterated their support for the licensee's request in a meeting with the licensee held on June 27, 2012. When the licensee approached the agencies about its request by letter dated January 16, 2017 following the discussions with Commission staff noted above, both agencies confirmed their concurrence with the licensee's request; however, both agencies indicated that they would want to re-examine water quality monitoring needs once the project is up for re-licensing or if project operations change. The licensee agreed with the agencies' request.

Discussion and Conclusions

6. The intent of the Plan is to ensure that project operations are not adversely affecting water quality downstream of the project. Since the licensee's Plan was approved in 1996, water quality data collected under the Plan has consistently shown that water quality at the project remains above the water quality standards outlined in Article 418. This is further evidenced by the fact that zero deviation reports have been filed with the Commission identifying excursions from the water quality standards, which is a reporting requirement under the Plan. Given this, we find the licensee's request to be appropriate and agree that water quality monitoring can be discontinued.

7. With regard to the agencies' comment that the need for water quality monitoring should be re-evaluated during the re-licensing process or if a change to approved project operations is proposed, the Commission's regulations as they relate to re-licensing or modifying project operations would provide these agencies an opportunity to provide comments and recommend water quality monitoring, should they deem it appropriate. In this way, the agencies' concerns are addressed. Nevertheless, the Commission should reserve its right to require that water quality monitoring under the Plan be reinstated if concerns regarding water quality arise and/or if project operation change. Accordingly, the licensee's request, as modified, should be approved.

The Director orders:

(A) Wisconsin Electric Power Company's request to discontinue water quality monitoring under the Water Quality Monitoring Plan (Plan) pursuant to Article 418, filed November 8, 2012 and supplemented February 7, 2017, for the Pine Hydroelectric Project No. 2486, as modified in ordering paragraph B, is approved.

(B) The Commission reserves the right to require monitoring to be re-instated under the approved Plan should concerns regarding water quality downstream of the project arise in the future based on available information.

(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 (2016). 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.

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Administration and Compliance

Document Content(s)

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