

161 FERC ¶ 62,125

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of Kaukauna

Project No. 2588-007

ORDER APPROVING SUSPENSION OF WATER QUALITY MONITORING
UNDER ARTICLE 403

(Issued November 22, 2017)

1. On October 24, 2017, the City of Kaukauna, Wisconsin, licensee for the Little Chute Hydroelectric Project No. 2588, filed a request to suspend water quality monitoring, pursuant to Article 403 of the project license.¹ The project is located on the Fox River, in the Village of Combined Locks, in Outagamie County, Wisconsin. The project utilizes the Little Chute Dam and Reservoir which are owned and operated by the U.S. Army Corps of Engineers (Corps).

License Requirement and Background

2. License Article 403, and condition 2 of the project's Water Quality Certification (WQC) issued by the Wisconsin Department of Natural Resources (Wisconsin DNR), required the licensee to develop and implement a plan to monitor dissolved oxygen (DO) and water temperature in the project area every 5 years for the term of the license. Additionally, the licensee is required to cooperate with any future plans developed by state or federal agencies to remove contaminated sediments from the lower Fox River. The licensee was required to prepare the plan after consultation with the Wisconsin DNR.

3. The licensee filed its Water Quality Monitoring Plan (Plan) on August 14, 2000, and the Commission approved the Plan on August 24, 2000.² The licensee monitors DO and temperature upstream and downstream of the project from June 15 through September 30, every five years. According to the licensee's Plan, if a comparison of the DO from the upstream and downstream monitoring locations show a daily average difference of greater than 2 milligrams per liter (mg/L) for a period of five consecutive

¹ Order Issuing New License (Major Project) (91 FERC ¶ 62,029), issued April 11, 2000.

² Order Approving Water Quality Monitoring Plan (92 FERC ¶ 62,170).

days or more, the licensee is to initiate discussion with the Wisconsin DNR to determine the cause of the difference. The Plan required the licensee to submit monitoring reports to the Commission and the Wisconsin DNR every five years, beginning December 31, 2001, unless the Wisconsin DNR and the licensee agree that future water quality monitoring is no longer necessary.

Licensee's Request

4. The licensee is requesting to suspend water quality monitoring at the project, stating that there is no evidence that operation of the project is affecting DO or temperature in the Fox River. As stated in the licensee's Plan, the primary concern was that the difference in daily average DO between upstream and downstream be less than 2 mg/L. In reviewing the licensee's water quality monitoring data from 2001, 2006, 2011 and 2016, there is no evidence that operations of the project are affecting DO or temperature. The licensee recommends that monitoring be suspended unless the licensee changes operations of the project, or the Commission requires the licensee to change project operation.

Agency Consultation

5. In a letter dated August 23, 2017, the licensee submitted a request to the Wisconsin DNR for their concurrence on suspending the water quality monitoring. By email dated September 7, 2017, the Wisconsin DNR provided its support. Although not required under Article 403, the licensee then provided a copy of its request and the Wisconsin DNR's support to the U.S. Fish and Wildlife Service and the Outagamie County Land Conservation Department. These agencies did not respond with questions or comments.

Discussion

6. Our review of the licensee's Water Quality Reports, filed December 31, 2001, December 20, 2006, November 14, 2011, and December 27, 2016, indicate that operation of the project is not affecting water temperature and DO. The data shows that the average daily temperature was nearly identical upstream and downstream of the project for all sampling periods. The DO was also similar between the upstream and downstream location, and at no time did DO vary by greater than 2 mg/L for five or more consecutive days. Based on our review of the available information we agree that water quality monitoring may be suspended and the licensee's request approved. However, the Commission should reserve its right to reinstate water quality monitoring if there is a change in project operation, or if there is documented need based on project specific information and/or consultation with the Wisconsin DNR.

The Director orders:

(A) The City of Kaukauna's request to suspend water quality monitoring, filed October 24, 2017, pursuant to Article 403 of the license for the Little Chute Hydroelectric Project No. 2588, is approved.

(B) The Commission reserves its right to reinstate water quality monitoring if there is a change in project operation, or if there is documented need based on project specific information and/or consultation with the Wisconsin Department of Natural Resources.

(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. § 825l (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2017). 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
Division of Hydropower Administration
and Compliance

Document Content(s)

P-2588-007.DOCX.....1-3