

138 FERC ¶ 62,054
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Consolidated Water Power Company

Project No. 2536-078

ORDER MODIFYING EXOTIC SPECIES PLAN PURSUANT TO ARTICLE 409

(Issued January 25, 2012)

1. On December 19, 2011, and January 6, 2012, Consolidated Water Power Company (licensee) filed requests to modify the exotic species monitoring plan pursuant to Article 409 of the license for the Little Quinnesec Falls Project.¹ The project is located on the Menominee River in Marionette County, Wisconsin, and Dickinson County, Michigan.

BACKGROUND

2. Article 409 required the licensee to develop a plan to monitor and control purple loosestrife and Eurasian watermilfoil. The plan was required to include, in part, a provision to cooperate in the control/elimination of these vegetative species if deemed necessary by the requisite resource agencies. The licensee's December 4, 1997 plan was approved by the Federal Energy Regulatory Commission (Commission) on March 13, 1998,² and required that the licensee notify the Michigan Department of Natural Resources (MDNR), the Wisconsin Department of Natural Resources (WDNR) and the U.S. Fish and Wildlife Service (FWS) if Eurasian watermilfoil is found and to develop a plan to control or remove it from the project area. Per MDNR's request in its letter of November 10, 2005, the licensee developed its control plan, which was approved by Commission order issued February 7, 2007.³

LICENSEE'S REQUESTED PLAN MODIFICATION

3. In its 2011 annual report required by the March 13, 1998, and February 7, 2007 orders and filed on December 19, 2011, the licensee notes that no purple loosestrife

¹ See Order Issuing New License, issued May 7, 1997. 79 FERC ¶ 62,095 (1997).

² See Order Modifying and Approving Purple Loosestrife and Eurasian Milfoil Monitoring Plan. 82 FERC ¶ 62,177 (1998).

³ See Order Modifying and Approving Eurasian Watermilfoil Control Plan Pursuant to Article 409. 118 FERC ¶ 62,114 (2007).

plants were found in the project area and that a dramatic decrease in the numbers and distribution of Eurasian watermilfoil was documented for the project area in contrast to the 2010 survey. It is believed that the naturally occurring watermilfoil weevil (*Euchrychiopsis lecontei*), a biological control agent of watermilfoil, likely played a role in the relative absence of the species in the project area. Consistent with the relative lack of watermilfoil in the project area, the sampling program for watermilfoil weevil could not be carried out in 2011. The licensee, therefore, proposes to modify the frequency of monitoring to biannually for both programs.

CONSULTATION

4. The licensee forwarded the 2011 annual report to the MDNR and the FWS on December 7, 2011. The MDNR concurred with the licensee's requested modification on December 19, 2011, and noted a spread of *Phragmites* reed in the project area and requested that the licensee add that species to its exotic species monitoring program. The FWS agreed with the biannual sampling as well as the monitoring of *Phragmites* in its communication dated December 13, 2011. By email dated December 13, 2011 to the MDNR, the licensee concurred with the request to add *Phragmites* to its monitoring program.

DISCUSSION

5. The licensee's annual monitoring reveals no purple loosestrife and dramatic decreases in Eurasian watermilfoil in the project area. It notes that the actual surface coverage of watermilfoil relative to the size of the impoundment is extremely small and that this may be the result of the natural presence of watermilfoil weevil, along with the difficulty of these plants invading a thriving native plant community. The request to extend the reporting period to biannually should still provide the necessary information on the populations of Eurasian watermilfoil and other invasive species such as purple loosestrife and, with the modification to include *Phragmites* in the monitoring program, should be approved.

The Director orders:

(A) Consolidated Water Power Company's (licensee) request to modify its exotic species monitoring plan to perform surveys on a biannual basis, filed on December 19, 2011, and January 6, 2012, as modified in paragraph (B), is approved. The filing date for the next report is December 31, 2013.

(B) The licensee's Order Modifying and Approving Purple Loosestrife and Eurasian Milfoil Monitoring Plan, issued March 13, 1998, is modified herein to include the monitoring and reporting of *Phragmites* species.

(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 (2006), and the Federal Energy Regulatory 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
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Document Content(s)

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