

143 FERC ¶ 62,055
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Flambeau Hydro, LLC

Project Nos. 9184-032 and
9185-031

ORDER AMENDING LICENSE ARTICLE 401(b)

(April 23, 2013)

1. On February 1, 2013, Flambeau Hydro, LLC (licensee) filed a request to amend the frequency of its purple loosestrife monitoring surveys required by article 401(b) and Wisconsin Department of Natural Resources Section 401 Water Quality Certification Condition M of the licenses for the Danbury Project No. 9184 and Clam River Project No. 9185.¹ The Danbury Project is located on the Yellow River and the Clam River Project is located on the Clam River; both projects are located in Burnett County, Wisconsin.

BACKGROUND AND LICENSE REQUIREMENTS

2. Article 401(b) for both projects, requires the licensee to file various reports with the Federal Energy Regulatory Commission (Commission) pursuant to the Wisconsin Department of Natural Resources (DNR) Section 401 Water Quality Certification (WQC). Condition M of the WQC requires the licensee to annually inspect the entire shoreline of the project waters for purple loosestrife (*Lythrum salicaria*) and other exotic species and map their distribution and relative abundance.

3. Inspections shall be scheduled in August while plants are flowering so purple loosestrife can be readily identified. The licensee shall submit a report of the monitoring results to the Wisconsin DNR by December 31 of each year. If the Wisconsin DNR deems it necessary to initiate or expand efforts to control purple loosestrife or other exotic species in the respective rivers, the licensee shall provide reasonable cooperation in those efforts.

¹ Order Issuing Subsequent License issued July 24, 2006 (116 FERC ¶ 62,058) and Order Issuing Subsequent License issued September 5, 2006 (116 FERC ¶ 62,188), respectively.

LICENSEE'S PROPOSED AMENDMENT

4. The licensee proposes to change its purple loosestrife survey from annually to once every two years. The first year (2012 and every 2nd year thereafter) will include a survey of purple loosestrife within the respective project boundaries. The licensee proposes to provide a report of the survey results and describe any control methods used on purple loosestrife stands that consist of less than 20 plants, to the Wisconsin DNR and the U.S. Fish and Wildlife Service (FWS) by December 31 of each year for review and comment. The licensee added that it would submit the report along with any agency comments to the Commission by the following March 1.

5. The second year (2013 and every 2nd year thereafter) will be for biological control of the purple loosestrife if any stands larger than 20 plants were found within the project boundaries. Smaller stands will be hand-pulled at the time of the survey. If purple loosestrife plants are found in excess of 20 plants per stand, the licensee proposes to work with the Grantsburg school environmental science class to grow *Galerucella* beetles for release at the respective projects. The Grantsburg school environmental science class has worked with the Wisconsin DNR in past years to raise the beetles for control of purple loosestrife in Burnett County.

6. During years when beetles are released, the licensee shall retain a record of the Global Positioning System (GPS) coordinates, approximate number of beetles or larvae released at each coordinate, and if there is any beetle damage to the surrounding purple loosestrife plants before the release. This information shall be included on a map and information matrix submitted with the biennial survey data.

AGENCY CONSULTATION

7. In an email dated January 11, 2013, the Wisconsin DNR recommends switching the annual purple loosestrife surveys at the Danbury and Clam River projects to a two-year assessment and control plan. In the January 11, 2013 email, Wisconsin DNR also requested a beetle release at the Clam River Project and that the licensee work with county staff to locate suitable beetles. The FWS, by email dated January 18, 2013, stated that it had no comments on the licensee's 2012 annual purple loosestrife survey reports and that it concurred with the comments provided by the Wisconsin DNR. Copies of all consultation correspondence among the licensee, Wisconsin DNR, and FWS regarding the annual purple loosestrife survey reports and the request for amendment were included with the submittal.

DISCUSSION AND CONCLUSIONS

8. Wisconsin DNR Section 401 WQC Condition M provides for adaptive management in the efforts to control purple loosestrife and other exotic species. Condition M states that if the Wisconsin DNR deems it necessary to initiate or expand

efforts to control purple loosestrife or other exotic species, the licensee is required to provide reasonable cooperation in those efforts. The Wisconsin DNR recommends and the FWS concurs with amending the annual purple loosestrife monitoring surveys to a two-year assessment and control plan. The licensee proposes to survey for purple loosestrife at the Danbury and Clam River projects in 2012 and every 2nd year thereafter. The licensee stated that it will provide a report with the survey results and any control methods used on purple loosestrife stands to the Wisconsin DNR and FWS by December 31 of each survey year, for review and comment. The licensee also indicated that it would submit the report to the Commission, along with any agency comments and recommendations, by the following March 1. If the licensee does not adopt a recommendation from a resource agency, the licensee's report that is filed with the Commission should include the licensee's reasons for excluding the recommendation, based on project-specific information.

9. In 2013 and every other year thereafter, the licensee stated it would provide biological control using *Galerucella* beetles to control purple loosestrife stands of 20 plants or more within the project boundaries. Smaller stands would be hand-pulled at the time of survey. If purple loosestrife plants are found in excess of 20 plants per stand, the licensee indicated that it would work with the Grantsburg school environmental science class to grow *Galerucella* beetles for release at the respective projects. This type of association with the Grantsburg school should provide a mutually beneficial relationship promoting science learning, community involvement, and business/educational partnerships.

10. Commission staff concurs with the licensee's proposed plan to utilize biological control (*i.e.*, *Galerucella* beetles) in the management of purple loosestrife at its respective projects. While purple loosestrife has not been observed since 2009 at the licensee's Danbury Project; biological control using *Galerucella* beetles should be an effective tool in the control of purple loosestrife at the Clam River Project. The Clam River Project impoundment, with several areas of purple loosestrife infestation, should benefit from the hand-pulling of purple loosestrife stands of less than 20 plants and the use of biological control (*i.e.*, *Galerucella* beetles) for purple loosestrife stands of 20 plants or more.

11. The licensee stated that it would keep a record of the GPS coordinates and the approximate number of beetles or larvae released at each coordinate. The licensee added that it would also record whether there was any beetle damage to the surrounding purple loosestrife plants before the beetles were released. Such information would be important in determining the success of using biological controls.

12. The licensee's request to amend the frequency of its purple loosestrife and exotic species survey from every year to a two-year assessment and utilizing a biological control, if necessary, in the non-survey year should provide for the management and control of invasive plant species at the licensee's projects. The licensee's proposed plan has been approved by the Wisconsin DNR and FWS. The monitoring surveys and

subsequent reports, as amended, fulfill the requirements of license article 401(b) and Wisconsin Section 401 WQC Condition M. Accordingly, the amended plan for purple loosestrife monitoring should be approved.

13. The Commission reserves the right to require changes to the plan based on the results of the survey and biological control of purple loosestrife and other exotic species.

The Director orders:

(A) Flambeau Hydro, LLC's request, filed February 1, 2013, to amend the frequency of the purple loosestrife monitoring surveys pursuant to article 401(b) to correspond to the modified Wisconsin Department of Natural Resources' Section 401 Water Quality Certification Condition M of licenses for the Danbury Project No. 9184 and Clam River Project No. 9185, is approved.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days of the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2012). 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)

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