

170 FERC ¶ 62,062
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

NorthWestern Corporation

Project No. 2301-035

ORDER APPROVING 2020-2040 WATER QUALITY MONITORING PLAN
UNDER ARTICLE 401(B)

(Issued January 30, 2020)

1. On October 10, 2019, NorthWestern Corporation, licensee for the Mystic Lake Hydroelectric Project No. 2301, filed a Water Quality Monitoring Plan for the period of 2020-2040, with the Federal Energy Regulatory Commission (Commission) pursuant to Article 401(b) of the project license.¹ The project is located on West Rosebud Creek, in Stillwater and Carbon counties, Montana. The entire project is located on U.S. Forest Service (Forest Service) lands within Custer National Forest.

Background

2. Article 401(b) of the project license requires the licensee to evaluate the data collected under its Water Quality Monitoring Plan, required by Article 401(a) and condition no. 3 of the Montana Department of Environmental Quality's (Montana DEQ) water quality certificate for the project, and modify the Plan, as appropriate, every ten years. Any new plan must be approved by the Montana DEQ. The current iteration of the Water Quality Monitoring Plan covered the period of 2010-2019 (2010-2019 Plan), which the Commission approved in its May 3, 2011 Order Modifying and Approving Water Quality Monitoring Plan Under Article 401.²

Licensee's Request

3. The licensee is seeking Commission approval of its 2020-2040 Water Quality Monitoring Plan (2020-2040 Plan). During the development of the 2020-2040 Plan, the licensee reviewed the data collected under the 2010-2019 Plan, and consulted with the Forest Service, Montana DEQ, and Montana Fish Wildlife and Parks (Montana FWP), collectively, referred to as the "Mystic Fisheries, Aquatic Habitats, and Water Quality Technical Advisory Committee (TAC)", regarding its 2020-2040 Plan. Based on the results of this effort, the licensee proposes in its 2020-2040 Plan to continue all

¹ Order issuing New License (121 FERC ¶ 62,198), issued December 17, 2007.

² 135 FERC ¶ 62,101.

monitoring efforts under the 2010-2019 Plan, with the exception of water temperature monitoring, which it would discontinue based on the results of its 2010-2019 monitoring data.³ Generally speaking, sampling in Mystic Lake would occur on 3-year intervals and in West Rosebud Creek on five-year intervals. Parameters sampled would include those associated with water chemistry and biological communities. Details of these parameters are included in the 2020-2040 Plan.

4. Within a year of each water quality sampling effort, the licensee would present a summary of the results to the TAC. At the end of the 20-year monitoring period, the licensee would prepare a comprehensive 20-year water quality monitoring report. The report would include a recommendation for future water quality monitoring based on the results of the monitoring conducted from 2020-2040. The recommendation to continue or cease water quality monitoring will be determined in consultation with the TAC. The licensee proposes to submit the report to the TAC prior to filing it with the Commission by December 31, 2041.

Agency Consultation

5. The licensee consulted with the TAC on the 2020-2040 Plan between May and October 2019 and received concurrence from each TAC member, including formal approval from Montana DEQ.

Discussion and Conclusions

6. The licensee's 2020-2040 Plan provides for the continuation of monitoring of a comprehensive suite of water quality parameters at numerous monitoring locations at the project. Based on the licensee's 2010-2019 water quality monitoring report, these efforts appear effective in meeting the intent of Article 401(a). Therefore, maintaining these efforts for the next 20 years is appropriate because it will allow the licensee and TAC to identify any water quality issues at the project over the next 20 years. The 2020-2040 Plan includes provisions to review the water quality monitoring results with the TAC and to file a comprehensive 20-year report with recommendations for future monitoring with all parties.

7. We recognize that Article 401(b) and condition no. 3 of the project's water quality certificate requires the licensee to modify the plan as appropriate on a ten-year cycle, as opposed to the proposed 20-year cycle in the 2020-2040 Plan. The licensee has completed the first ten-year cycle through the 2010-2019 Plan, and based on the results of the data collected under that plan, has determined that only one minor change- the

³ The licensee's rationale for excluding water temperature monitoring is explained in more detail in its 2010-2019 water quality monitoring report, filed with the Commission on October 10, 2019.

removal of water temperature monitoring- is needed for the next iteration of the plan. The TAC agrees with this determination and has not demonstrated any opposition to a 20-year cycle, as reflected in their concurrence with the licensee's proposed 2020-2040 Plan. Given this, coupled with the fact that the licensee will be in contact with TAC throughout the duration of the 2020-2040 Plan, we conclude that a 20-year cycle of the plan is appropriate for this iteration. The 2020-2040 Plan meets the requirements of Article 401(b) and, therefore, should be approved.

The Director orders:

(A) NorthWestern Corporation's 2020-2040 Water Quality Monitoring Plan, filed October 10, 2019, pursuant to Article 401(b) of the Mystic Lake Hydroelectric Project No. 2301 license, is approved.

(B) 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 (2018), and the Commission's regulations at 18 C.F.R. § 385.713 (2019). 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

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