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July 9, 2021

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**RE: River Falls Hydroelectric Project, FERC No. P-10489
Amendment Application for Powell Falls Decommissioning**

Dear Secretary Bose,

Pursuant to the Federal Energy Regulatory Commission (FERC or Commission) regulations at 18 CFR §4.200, River Falls Municipal Utilities (RFMU or Licensee) is submitting its Application for Non-Capacity Amendment of License (Amendment Application) for the River Falls Hydroelectric Project (FERC No. 10489). The current license for the River Falls Hydroelectric Project expires on August 31, 2023. RFMU provided a copy of the draft Amendment Application to appropriate federal and state agencies, Tribes, local governments, and members of the public interested in the proceeding, as set forth on the attached distribution list on May 5, 2021. Comments received are addressed herein.

The Amendment Application includes the following documents:

- Appendix A – Decommissioning Plan Drawings
- Appendix B – Rare Species Information (Filed with FERC as Privileged document)
- Appendix C – Consultation Not Previously Filed with FERC
- Appendix D – Consultation Summary
- Appendix E – Existing FERC License and Amendments
- Appendix F – Subscription and Verification

If there are any questions or comments regarding the Amendment Application, please contact Kevin Westhuis at (715) 426-3442, or by email at kwesthuis@rfcity.org.

FERC
July 9, 2021

Sincerely,

A handwritten signature in cursive script that reads "Kevin Westhuis".

Kevin Westhuis
Utility Director
City of River Falls Municipal Utilities
222 Lewis Street
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cc: River Falls Hydroelectric Project Interested Parties Mailing List
Shana Wiseman, FERC
Diana Shannon, FERC
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Angela Whelpley, TRC
Lesley Brotkowski, Kleinschmidt Associates
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CERTIFICATE OF SERVICE

RIVER FALLS HYDROELECTRIC PROJECT DISTRIBUTION LIST, FERC No. 10489

I, Kevin Westhuis, Utility Director, River Falls Municipal Utilities, hereby certify that copies of the foregoing document have been transmitted to the following parties on July 9, 2021.

Via email, hard copy, or compact disc, regular mail, postage paid to:

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**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

River Falls Municipal Utilities)
)
 Project No. 10489
 River Falls Hydroelectric Project

**APPLICATION FOR NON-CAPACITY
AMENDMENT OF LICENSE**

Pursuant to section 4.200 of the Federal Energy Regulatory Commission’s (Commission or FERC) regulations,¹ the City of River Falls Municipal Utilities (hereinafter “RFMU” or “Licensee”) hereby submits this Application for Non-Capacity Amendment of License (Amendment Application) for the River Falls Hydroelectric Project (Project No. 10489). As detailed herein, the Licensee seeks the Commission’s approval to decommission the Powell Falls Development and remove the Powell Falls Development from the FERC License.

The existing FERC license for the River Falls Hydroelectric Project (“Project”) currently includes two developments, the Junction Falls (upstream dam that impounds Lake George) and the Powell Falls (downstream dam that impounds Lake Louise). The Licensee filed a request with the FERC for approval to draw down the impoundment at the Powell Falls Development for a dam safety evaluation on September 25, 2020 and supplemented on October 1, 2020. The FERC issued an Order Granting Temporary Variance of Article 401,² which included approval of the drawdown of the Powell Falls impoundment on October 1, 2020. This FERC Order states that normal reservoir elevations shall be established by June 1, 2021 and that the Licensee shall file an impoundment refill plan by April 1, 2021.

The dam safety inspection was conducted on October 19, 2020 and summarized in the Post-Flood Dam Safety Inspection and Repair Options report filed with the FERC Office of Energy Projects Division of Dam Safety and Inspections - Chicago Regional Office on December 22, 2020. This FERC filing outlined five potential repair and management options for the Powell Falls Development. After careful review of site conditions and available options, the Licensee is proposing to maintain the drawn down condition of the Powell Falls impoundment, cease operation, and decommission the Powell Falls Development.

¹ 18 C.F.R. § 4.200.

² Article 401 requires the licensee operate the Project in an instantaneous run-of river mode to protect fish and wildlife resources, and minimize fluctuations of each impoundment surface elevation, i.e., maintain the discharge from each powerhouse that approximates the instantaneous sum of inflow of each impoundment.

In lieu of the refill plan required by the FERC Order Granting Temporary Variance of Article 401, the Licensee is submitting this Amendment Application for the decommissioning of the Powell Falls Development and removal from the FERC license. An amendment is required as the impoundment will not be refilled, and power generation will not resume at the Powell Falls Development.

I. INITIAL STATEMENT

Pursuant to Section 4.201 of the Commission’s regulations,³ the Applicant states the following:

A. River Falls Hydroelectric Project No. 10489

1. The Licensee applies to the Commission for a non-capacity amendment of license for the River Falls Hydroelectric Project, which is located on the Kinnickinnic River in Pierce County, Wisconsin.
2. The exact name, business address, and telephone number of the Applicant are:

City of River Falls Municipal Utilities
222 Lewis Street
River Falls, WI 54022
Attn.: Kevin Westhuis
Phone: (920) 462-0220

The exact name, address, and telephone number of each person authorized to act as agent for the Applicant are:

Kevin Westhuis
Utility Director
City of River Falls Municipal Utilities
222 Lewis Street
River Falls, WI 54022
Phone: (920) 462-0220

It is requested that copies of all correspondence pertaining to this application be provided to:

Lesley Brotkowski
Senior Licensing Coordinator
Kleinschmidt Associates
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³ 18 C.F.R. § 4.201.

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Senior Project Manager
Ayres Associates Inc
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Angela Whelpley
Permitting Specialist
TRC Companies
14 Gabriel Drive
Augusta, ME 04330

3. The Applicant, RFMU, is a public utility pursuant to Wis. Stat. § 196.01(5). The FERC issued a license to operate the River Falls Hydroelectric Project on September 27, 1988, which was set to expire on August 31, 2018.⁴ On July 6, 2015, the Licensee requested a five-year license extension from the FERC. On March 17, 2016, the FERC granted the Licensee a license term extension of five years, extending the license term to August 31, 2023.⁵
4. The purpose of the proposed License Amendment is to decommission the Powell Falls Development and remove the Powell Falls Development from the FERC license, Project No. 10489. An amendment is required, as the impoundment will not be refilled, and power generation will not resume at the Powell Falls Development.
5. Upon approval from the FERC to remove the Powell Falls Development from the FERC license, jurisdiction of the dam would fall under the Wisconsin State statutory and regulatory requirements.⁶ The Wisconsin Department of Natural Resources (Wisconsin DNR) would determine its own hazard rating under Admin. Code Chapter NR 333 and classification under State Statute Chapter 31. The dam failure analysis and dam height-storage would likely result in a “low hazard large dam” classification, which would require the dam owner to inspect the dam on a regular basis per the Owner Responsible Inspection Program (Chapter 31), provide signage and portage (Admin. Code Chapter NR 330), maintain sufficient flow capacity and stability (Admin. Code Chapter NR 333), and stay current on state requirements to be eligible for the Municipal Dam Grant Program (Admin. Code Chapter NR 335). These requirements will apply to Powell Falls Dam until it is removed and no longer capable of impounding water.
6. In accordance with 18 CFR § 4.201 of the Commission's regulations, this Initial Statement along with the enclosed text and appendices are made a part of this

⁴ 44 FERC ¶ 62,298 (1988)

⁵ 154 FERC ¶ 61,214 (2016)

⁶ Wisconsin has one of the highest rated dam safety programs in the nation, scoring a 93% weighted average grade (<https://damsafety-prod.s3.amazonaws.com/s3fs-public/files/WI-Performance%20Report%202018.pdf>).

application. The Junction Falls Development of the River Falls Hydroelectric Project (Project No. 10489) is undergoing relicensing and the Draft License Application was filed with FERC on April 1, 2021. Exhibits A, E, F, and G in that application have excluded the Powell Falls Development.

II. DISCUSSION

The Project is located on the Kinnickinnic River in Pierce County, Wisconsin, about 10 miles upstream of the St. Croix River. The Powell Falls Development consists of: (1) a 110-foot-long, 22-foot-high concrete dam; (2) an impoundment with a surface area of 15.4 acres; (3) a powerhouse containing one generating unit rated at 125 kW; (4) a 2,500-foot-long transmission line; and (5) appurtenant facilities. The Powell Falls Development is owned and operated by RFMU and does not occupy any federal facilities or land.

The Notice of Intent (NOI) and Pre-Application Document (PAD) filed with FERC in 2018 outlined the Licensee's proposed action to relicense the Junction Falls Development and to decommission and remove the Powell Falls Development through the Integrated Licensing Process (ILP). The Area of Potential Effect (APE) is depicted on Figure 1.

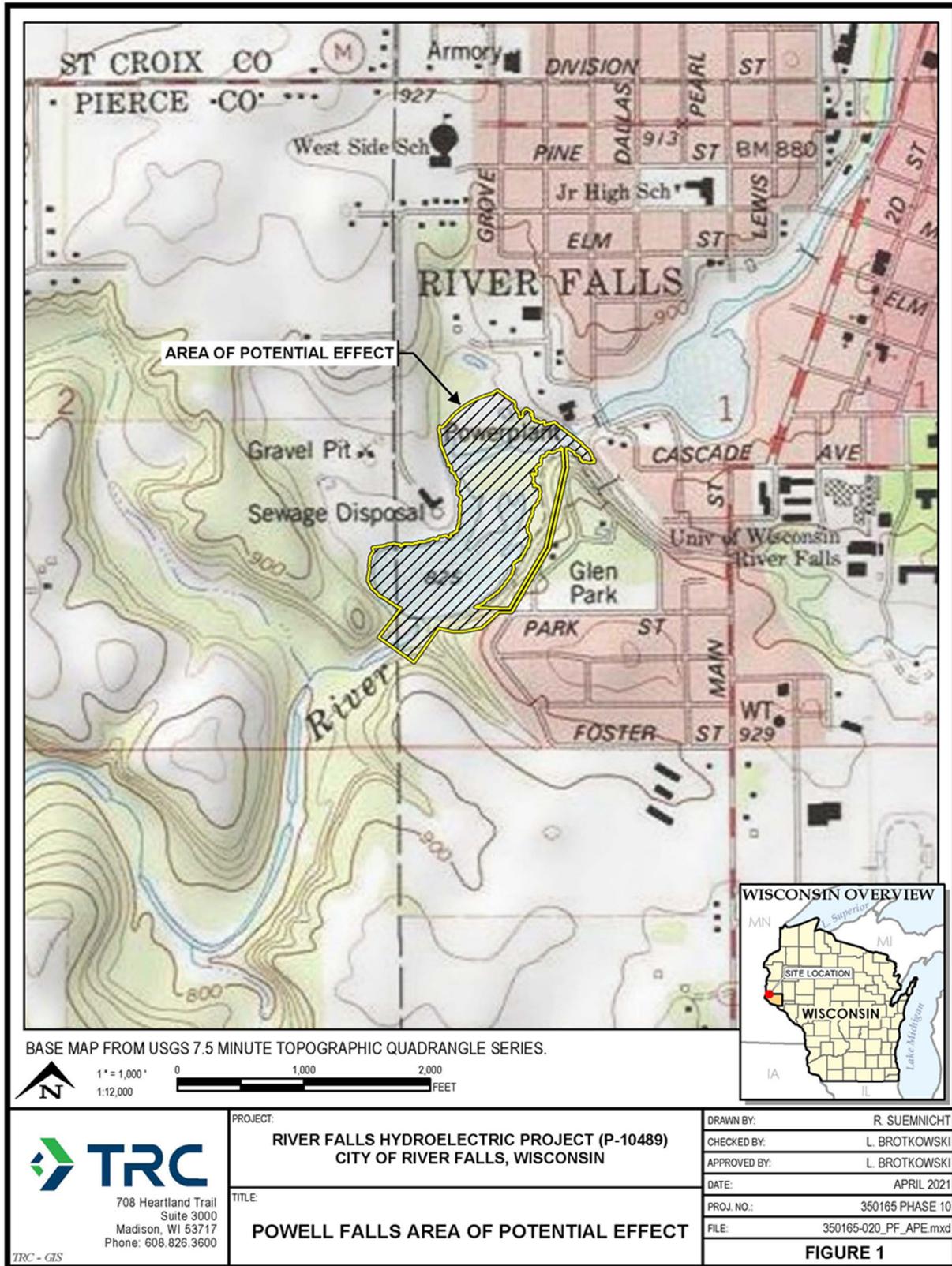
Since the filing of the NOI and PAD, a flood damaged the Powell Falls dam in June 2020, breaking off a section of the training wall. The Powell Falls impoundment (Lake Louise) was drawn down in October 2020 for the dam safety inspection. On December 22, 2020, RFMU submitted the Post-Flood Dam Safety Inspection and Repair Options Letter for Powell Falls to FERC. The report outlined five action options following the dam safety inspection. These options were presented at a Joint Workshop with the Common Council and Utility Advisory Board on January 19, 2021 and further discussed at a Utility Advisory Board Meeting on March 15, 2021 and a Common Council Meeting on March 23, 2021. The Common Council adopted Resolution No. 6558 on March 23, 2021, which included selection of Option 3 as presented in the dam safety inspection:

Option 3: Keep the Powell Falls impoundment drawn down in the current state but fix the [sluice] gate and pull the turbine.

This resolution further defined Option 3 as follows:

- a. Keep Lake Louise drawn down, fix the gate, and remove the turbine to enhance flow capacity.
- b. Initiate sediment removal downstream of dam after approvals from state and federal agencies are granted.
- c. Remove Powell Falls from the FERC license and decommission the project. Decommissioning will include turbine removal and decommissioning the powerhouse and appurtenant facilities, excluding dam removal.
- d. Apply under state jurisdiction to remove the Powell Falls dam after FERC approves the removal of Powell Falls from the FERC license.
- e. Site restoration is expected to be complete in 2026.

Figure 1. Powell Falls Area of Potential Effect



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A. Reason for Decommissioning and Removal from FERC License

RFMU received a 30-year FERC license on September 27, 1988 for the operation of the Project, which was set to expire on August 31, 2018. On November 27, 2013, the Licensee filed a NOI and PAD with FERC. In response to the NOI and PAD local stakeholder groups voiced opposition to the continued operation and maintenance of the Project and advocated for dam removal. On July 6, 2015, the Licensee requested a five-year license extension from the FERC to allow for a river corridor planning process. On December 9, 2015, Commission staff issued an order denying the Licensee's request and on January 8, 2016, the Licensee filed a timely request for rehearing. On March 17, 2016, the FERC granted the Licensee a license term extension of five years, extending the license term to August 31, 2023.

Through the river corridor planning process, the Kinni Corridor Project Committee developed a recommendation and brought it before the RFMU Council. On February 27, 2018, the RFMU signed Resolution No. 6234 that included the removal of the Powell Falls Development by 2026. RFMU declared its intent to decommission the Powell Falls Development in the NOI and PAD submitted to FERC on August 30, 2018 using FERC's ILP.

On the night of June 28-29, 2020, a rainstorm occurred that produced up to eight inches of rain in some parts of the Kinnickinnic watershed. The peak reported flow at the USGS gaging station downstream of River Falls was approximately 6,300 cubic feet per second (cfs). The flood damaged the existing Powell Falls dam, breaking off a section of the training wall. RFMU submitted a 12.10 Report⁷ to FERC to report the flood incident and damage to the dam on July 16, 2020. On September 10, 2020, FERC requested a plan and schedule to address a dam safety inspection and replacement of gages⁸.

Following receipt of FERC's letter, RFMU consulted with the Wisconsin DNR, Kiap-Tu-Wish Chapter of Trout Unlimited (TU), U.S. Fish and Wildlife Service (USFWS), Wisconsin State Historic Preservation Office (SHPO), and FERC regarding the flood damage and need for a drawdown of Lake Louise to conduct the dam safety inspection. RFMU submitted the Plan and Schedule Response to FERC's September 10, 2020 letter on September 25, 2020⁹. This response included a plan and schedule to draw down Lake Louise to conduct the dam safety inspection.

FERC issued an Order Granting Temporary Variance of Article 401 (which requires run-of-river operation) on October 1, 2020¹⁰. This Order approves the drawdown for the dam safety inspection, requires normal elevations to be established by June 1, 2021, and requires submittal of an impoundment refill plan by April 1, 2021.¹¹

⁷ https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14877395

⁸ https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14891223

⁹ https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14894430

¹⁰ https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14895703

¹¹ In lieu of the refill plan required by the FERC Order Granting Temporary Variance of Article 401, RFMU filed a response to FERC on April 1, 2021 (https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14942213) stating its intention to submit this Amendment Application for the decommissioning of the Powell Falls Development and removal from the FERC license. FERC responded on May 14, 2021 (https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14957265) acknowledging the April 1, 2021 letter.

FERC also issued a letter from the Division of Dam Safety and Inspections - Chicago Regional Office dated October 2, 2020, which concurred with the proposed dam safety investigation plan and required the dam safety inspection report and recommendations for future action be submitted to FERC by December 31, 2020¹². On December 22, 2020, RFMU submitted the Post-Flood Dam Safety Inspection and Repair Options Letter for Powell Falls to FERC¹³.

Due to the damages caused by the 2020 flood, generation is not expected to pay for the repairs necessary to restore the dam to current FERC standards. The Licensee believes there are too many fiscal and environmental concerns with refilling the Lake Louise impoundment and continuing power generation at the Powell Falls Development. For these reasons, the Licensee is pursuing an amendment from FERC to keep the Powell Falls impoundment drawn down, decommission the Powell Falls Development, and remove the Powell Falls Development from the FERC license.

B. Decommissioning Plan

In this Amendment Application, RFMU proposes to decommission and remove the Powell Falls Development from the FERC license, with the intent to keep facilities in place. RFMU will coordinate future sediment management, dam removal, and permit needs with the Wisconsin DNR and US Army Corps of Engineers (USACE) following receipt of the FERC Amendment to remove the Powell Falls Development from the FERC license.

Decommissioning of the Powell Falls Development includes removing the turbine, stabilizing the training wall, improving gate operation reliability, and decommissioning the powerhouse and appurtenant facilities, excluding the removal of the dam. Decommissioning Plan Drawings are depicted in Appendix A.

i. Hydraulic Capacity Improvements: Disconnect Power, Pull Turbine, Clean Trash Rack & Improve Gate Operation Reliability

Prior to increasing hydraulic capacity, RFMU will disconnect the Powell Falls generating equipment from the electrical grid interconnection. If station service power is required for operating the new gate hoist, the generator will be electrically isolated from station service power.

RFMU proposes to alleviate the rapid rise and fall of lake levels that contribute to upstream bank sloughing. To dampen water level cycles and limit dynamic fluctuations possibly detrimental¹⁴ to the waterway, RFMU has agreed to pull the turbine. This will double the existing flow

¹² https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14896026

¹³ https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14916806

¹⁴ Email from Wisconsin DNR sent October 13, 2019, to Licensee after initial drawdown. Continuous refilling and dynamic water level changes within the impoundment can be detrimental to the river resources both upstream and downstream of Powell Falls Dam.

capacity through the powerhouse at impoundment elevation 809 feet (Project datum) and add 30% more flow capacity when the impoundment is just below the spillway crest. Pulling the turbine will not add significantly more flow capacity for impoundment elevations above the spillway crest. The turbine opening flowrate is controllable with the existing upstream intake gate that does currently operate smoothly and reliably. RFMU will monitor flow conditions exiting the powerhouse and close the upstream intake gate if adverse draft tube hydraulic conditions are noted.

The Powell Falls trashrack will be left in place and cleaned regularly to prevent future woody debris from lodging in the draft tube elbow. RFMU will inspect the trashrack after each flood event and confirm it is clear of debris and structurally intact.

The sluice gate will be used to provide additional flow control during runoff events. Based on a site inspection, the existing sluice gate's bent shaft may be binding within the actuator pinion. RFMU proposes to replace the existing actuation system with a new lifting mechanism, sized appropriately for the gate weight and expected slot/wall friction loads. The gate will be reliably operable to allow closure of the gate after a high flow event refills the impoundment so that the rate of impoundment level drop is less than two feet per day. This is expected to decrease the upstream bank sloughing and sediment release through the sluice gate.

RFMU requests FERC approval to proceed with hydraulic capacity improvements noted in this section as soon as possible and preferably by September 1, 2021.

ii. Stability Improvements: Right Abutment Stabilization

The bedrock erosion potential and lateral abutment scour that occurred during the June-July 2020 flood event are expected to increase unless measures are taken to prevent further erosion and preserve the stability of the right abutment. RFMU proposes to stack sandbags to cover the exposed right abutment. While the inflow design flood would reach more than nine feet higher than the spillway, it appears the lateral abutment scour is limited to areas of higher shear stress where flow contracts into the spillway and accelerates over the damaged right training wall area. Therefore, RFMU proposes to stack sandbags a minimum of four feet higher than the existing spillway crest in the area of missing training wall and damaged bedrock. Sandbags will be stacked so that the long axis is upstream to downstream and they will be laid in a running bond pattern. The rows of stacked sandbags will start at or upstream of the crest of the spillway. A polyethylene liner will be placed in the sandbags. See Appendix A for further detail.

RFMU requests FERC approval to proceed with stability improvements noted in this section as soon as possible and preferably by September 1, 2021.

iii. Schedule

The decommissioning process for the Powell Falls Development is expected to follow this schedule:

Table 1: Anticipated Schedule

Activity	Date
Disconnect generating equipment from electrical grid	September 2021
Turbine pulling and gate hoist operability improvements	September 2021
Right abutment protection	September 2021

C. Environmental Considerations

Endangered Species Act

To assess the potential occurrence of rare, threatened, and endangered (RTE) species in the Powell Falls APE and surrounding area, the Licensee consulted federal and state resources. Information requests were made to the USFWS and the Wisconsin DNR Natural History Inventory (NHI) Portal Endangered Resources Review.

The USFWS Information for Planning and Conservation (IPaC) tool allows for RTE searches within a specified area. The site specific USFWS IPaC search of the APE listed one bat (northern long-eared bat), three species of mussels (Higgins eye, snuffbox, and spectaclecase), and one plant (prairie bush-clover)¹⁵ (Appendix B). No critical habitat is located in the Powell Falls APE (USFWS 2021). The results are listed in Table 2.

¹⁵ The original IPaC review was conducted on February 12, 2021. The IPaC review was updated on July 7, 2021 to verify the list of species did not change.

Table 2. Federally Listed Rare, Threatened, and Endangered (RTE) Species that May Occur in the Project Vicinity

Common Name	Scientific Name	Status ²	Critical Habitat*
Northern long-eared bat ¹	<i>Myotis septentrionalis</i>	FT, ST	N/A
Higgins eye (pearlymussel) ¹	<i>Lampsilis higginsii</i>	FE, SE	N/A
Snuffbox mussel ¹	<i>Epioblasma triquetra</i>	FE, SE	N/A
Spectaclecase (mussel) ¹	<i>Cumberlandia monodonta</i>	FE, SE	N/A
Prairie bush-clover ¹	<i>Lespedeza leptostachya</i>	FT, SE	N/A
Bald eagle	<i>Haliaeetus leucocephalus</i>	Protected ³	N/A

Source: ¹ USFWS 2021

FE (Federal Endangered), FT (Federal Threatened)

³ The Bald Eagle is federally protected under the Bald and Golden Eagle Protection Act, and under the Migratory Bird Treaty Act, and managed by the State of Wisconsin as a “protected wild animal” under NR 10.02 (6).

* N/A = No critical habitat has been designated for the species.

The Wisconsin DNR NHI is a statewide inventory of known locations of rare and endangered species and communities. RFMU requested an Endangered Resources Review on January 29, 2021 and the results were received on February 4, 2021 (Wisconsin DNR ER Log # 21-087). The results of this site-specific review contain data that are considered sensitive and are not subject to Wisconsin's Open Records Law (per s. 23.27, Wis. Stats.). Due to the confidential nature of the results, the details of the report are not provided in this public filing; these results are included in Appendix B, and filed with FERC as a Privileged document.

In summary, there were no RTE species identified in the Wisconsin DNR Endangered Resources Review with required actions, three (3) species (including one insect and two plant species) and one (1) community with recommended actions, and thirteen (13) species or communities with no required or recommended actions. Recommended actions include assuming species presence and fencing off areas of potential habitat and using native trees, shrubs, and flowering plant species in landscaping.

RFMU conducted a Wetland, Riparian, and Terrestrial Resources survey in 2019 that evaluated the potential presence of federal and state listed rare, threatened, and endangered species habitat in the Powell Falls APE, including mature hardwood trees for potential northern long-eared bat habitat (TRC 2020a). Within the Powell Falls APE, habitat types include fresh (wet) meadow, shallow marsh, bottomland hardwood woodland, old field, young upland woodland, riparian woodland, mature woodland, and oak savanna.

During the field assessment, suitable habitat for potential RTE species was evaluated and meander surveys conducted within their associated habitats to document the presence/absence of that species, or any signs of that species. The Powell Falls APE was examined for prairie bush clover, northern long-eared bats, and state listed botanical species.

Habitat for the federally-threatened plant species, prairie bush-clover, includes tallgrass, prairie with mesic, and moderately damp to dry prairie soils. Suitable habitat for this species was identified in the oak savanna cover type. Therefore, this area was extensively searched for presence of the plant. No individuals of the prairie bush-clover were found in the Powell Falls APE.

Northern long-eared bats hibernate in caves and mines during the winter and roost in live or dead trees with cavities or crevices during the summer. Suitable roost trees include live trees and/or snags ≥ 3 inches diameter at breast height (dbh) that have exfoliating bark, cracks, crevices, and/or cavities. Mature trees were present within the Powell Falls APE; however, the trees were in good health with no noticeable crevices or exfoliating bark to provide suitable summer roosting habitat for the northern long-eared bat.

A mussel survey was performed in the 0.8 miles of the Kinnickinnic River upstream of the confluence of the St. Croix River and downstream of this location to the confluence of the Mississippi River during 2020 to document mussel habitat, and the occurrence density, distribution, and relative abundance of any federally listed mussel species present (Kelner 2020). The results of this survey show the lower St. Croix River harbors a species rich mussel community in the study area with at least 19 live species including the federally endangered Higgins eye in some of the sampled sites, with pockets of moderately densely populated areas that appears minimally affected by zebra mussels at this time (Kelner 2020). A total of 55 live mussels representing 11 species were observed at the sampling location closest to the Kinnickinnic River confluence. None of the federally listed species were observed at the site closest to the Kinnickinnic River confluence (Kelner 2020).

The lower Kinnickinnic River is less suitable for use of freshwater mussels due to the presence of loose shifting sand substrate. The Kinnickinnic River is a coldwater trout stream, which “typically do not harbor diverse mussel assemblages” (Kelner 2020). Kelner performed sampling in the lower Kinnickinnic River in July 2020 and found no evidence of live or relic mussels. No records of native mussels have been identified from the lower Kinnickinnic River (Kitchel pers. comm., as cited in Kelner 2020).

The flood event that occurred immediately prior to the mussel survey provided an opportunity to evaluate the effects of sediment releases during future dam removal on the lower Kinnickinnic River with possible impacts to mussels in the lower 6 miles of the St. Croix River. Given the results from this study (no mussels found in the lower Kinnickinnic River) it appears dam removal with respect to possibly increased sedimentation into the lower St. Croix would not result in adverse impacts to mussels including federally listed species in the short term. Mussel community data obtained during the 2020 survey and a previous mussel survey in 2001 provide a valuable pre-dam removal baseline that could be used in future monitoring efforts.

Based on the information gathered during these studies, the decommissioning of the Powell Falls Development is unlikely to have an adverse effect on RTE species.

Bald Eagle Act

The Bald and Golden Eagle Protection Act was originally enacted in 1940 (16 U.S.C 668-668d) to protect eagles from human-induced alterations and human interactions. As defined in 50 CFR, Part 22, permits are required for the “taking” (meaning to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb), possession, and transportation with the United States of bald eagles and golden eagles and their parts, nests, and eggs.

Wisconsin DNR postponed the annual bald eagle count in 2020 because of the COVID-19 pandemic. As of 2019 there were twenty (20) occupied bald eagle nests in Pierce County and fifteen (15) occupied bald eagle nests in Saint Croix County, the county immediately north of the Project (Wisconsin DNR 2019). Bald eagles are known to fly through the Project and nest in the surrounding area outside the Powell Falls APE. There are no eagle nests in the Powell Falls APE, and eagles were not raised as a resource issue of concern during consultation.

Wild and Scenic Rivers and Wilderness Acts

No nationally designated wild and scenic river or wilderness areas are within the Powell Falls APE. The St. Croix River, located approximately 10 river miles downstream of the Project, is a designated National Scenic Riverway. The 2020 mussel survey (described above) was conducted, in part, to determine if sediment release and future dam removal would affect mussels in this waterway. Based on the results of the mussel survey, it is not anticipated that increased sedimentation into the lower St. Croix from decommissioning or future dam removal would result in adverse impacts to mussels in the short term.

National Historic Preservation Act

The Licensee conducted two studies to identify cultural resources eligible for listing on the National Register of Historic Places (NRHP) in accordance with Section 106 of the National Historic Preservation Act (NHPA). Studies were conducted for architectural resources and archaeological resources. The Licensee submitted a request for review of the proposed Powell Falls APE on October 2, 2019 and the Wisconsin SHPO concurred with the Powell Falls APE in a letter dated October 10, 2019 (Appendix C).

The Architectural Resources Survey concluded that the Powell Falls Development (AHI 240830) is not eligible for listing in the NRHP due to lack of historical significance and/or loss of integrity (TRC 2020b). As a result, TRC recommended the proposed FERC decommissioning actions would have No Effect on historic architectural resources and recommended no additional investigation of above-ground resources in connection with the Project. By correspondence dated February 20, 2020, Wisconsin SHPO concurred with the findings from the Architectural Resources Survey and determined that the Powell Falls Development (AHI 240830) is not eligible for inclusion on the NRHP (Appendix C).

A Phase I Archaeological Survey of the shoreline of Lake Louise, areas below the dam, and lands within the Powell Falls APE was conducted (TRC 2021). Archaeological sites or artifacts were not found, and no additional archaeological work was recommended for the proposed project in the Powell Falls APE. By correspondence dated February 22, 2021, Wisconsin SHPO determined that no cultural resources included on, or eligible for the NRHP were encountered

during the Archeological Survey. Wisconsin SHPO determined that the proposed federal undertaking should not pose an adverse effect to Cultural Resources and that the hydroelectric Project may proceed to the next steps (Appendix C).

Wisconsin SHPO provided comments on the draft Amendment Application on May 13, 2021 (Appendix D), stating that no eligible properties will be affected, and the proposed undertaking may proceed as planned.

III. CONSULTATION

The draft Amendment Application was distributed to agencies and stakeholders for a 30 day review and comment period on May 5, 2021. Comments are summarized in Appendix D and have been incorporated herein.

Agency and stakeholder post 2020-flood consultation specific to the Powell Falls Development have been previously filed with FERC in the September 25, 2020 Plan and Schedule Response to FERC's September 10, 2020 letter¹⁶; the October 1, 2020 Summary of Lake Louise Drawdown Discussion with Kiap-TU-Wish Chapter Trout Unlimited¹⁷; and the December 22, 2020 Post-Flood Dam Safety Inspection and Repair Options Letter for Powell Falls¹⁸. Notes from a conference call between FERC, Wisconsin DNR, Licensee, and consultants held on January 26, 2021 are included in Appendix C.

IV. CONCLUSION

RFMU is submitting this Amendment Application for the decommissioning of the Powell Falls Development and removal from the FERC license. An amendment is required as the impoundment will not be refilled, and power generation will not resume at the Powell Falls Development. RFMU requests FERC approval to proceed with the hydraulic capacity and stability improvements described herein as soon as possible and preferably by September 1, 2021.

DATED: July 9, 2021

V. REFERENCES

Kelner, D. 2021. Mussel Survey for the River Falls Hydroelectric Project (FERC No. 10489), Lower Kinnickinnic and St. Croix Rivers, Pierce County Wisconsin and Washington County Minnesota. U.S. Army Corps of Engineers, St. Paul District. January 2021. Available in the Updated Study Report:
https://elibrary.ferc.gov/eLibrary/docinfo?accession_num=20210129-5114

¹⁶ https://elibrary.ferc.gov/eLibrary/filelist?document_id=14894430&optimized=false

¹⁷ https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14895648

¹⁸ https://elibrary.ferc.gov/eLibrary/docinfo?document_id=14916806

- TRC. 2020a. Wetland, Riparian, and Terrestrial Resources Survey, River Falls Hydroelectric Project (FERC No. 10489). Available in the Initial Study Report:
https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20200130-5173
- TRC. 2020b. Architectural Resources Survey for the River Falls Hydroelectric Project (FERC No. 10489). Available in the Initial Study Report:
https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20200130-5173
- TRC. 2021. Archaeological Survey of the Shoreline at Powell Falls Development, River Falls Hydroelectric Project (FERC No. 10489): Available in the Updated Study Report:
https://elibrary.ferc.gov/eLibrary/docinfo?accession_num=20210129-5114
- United States Fish and Wildlife Service (USFWS). 2021a. Information for Planning and Consultation (IPaC). Available online:
<https://ecos.fws.gov/ipac/location/MYIKL2LSHRHG3DT5JQM3RM3TOE/resources>

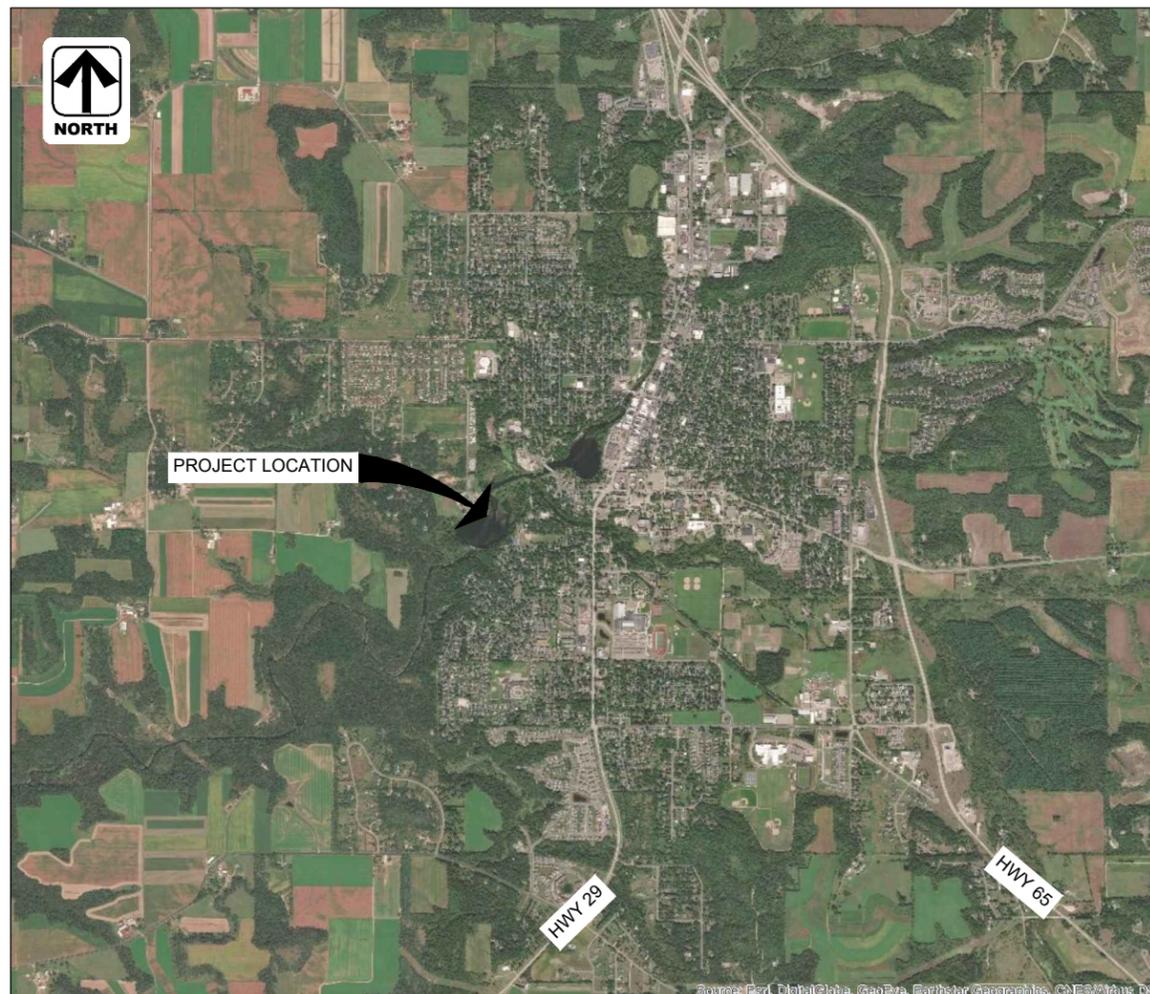
Appendix A
Decommissioning Plan Drawings

POWELL FALLS DECOMMISSIONING CITY OF RIVER FALLS MUNICIPAL UTILITIES JULY 2021



PIERCE COUNTY

COUNTY MAP



CITY OF RIVER FALLS

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ST CROIX GAS
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TDS TELECOM
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APPLETON, WI 54911
(920) 882-4166

CHARTER COMMUNICATIONS
JEFF KULAF
853 MCINTOSH STREET
PO BOX 1818
WAUSAU, WI 54402
(715) 301-4075
MOBILE (715) 302-1483

DIGGERS HOTLINE
1-800-242-8511 OR 811



SHEET INDEX

Sheet Number	Sheet Title
1	TITLE
2	LEGEND
3	GENERATOR & SLUICE GATE REPAIRS
4	RIGHT ABUTMENT

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POWELL FALLS DECOMMISSIONING
FERC PROJECT NO. 10489

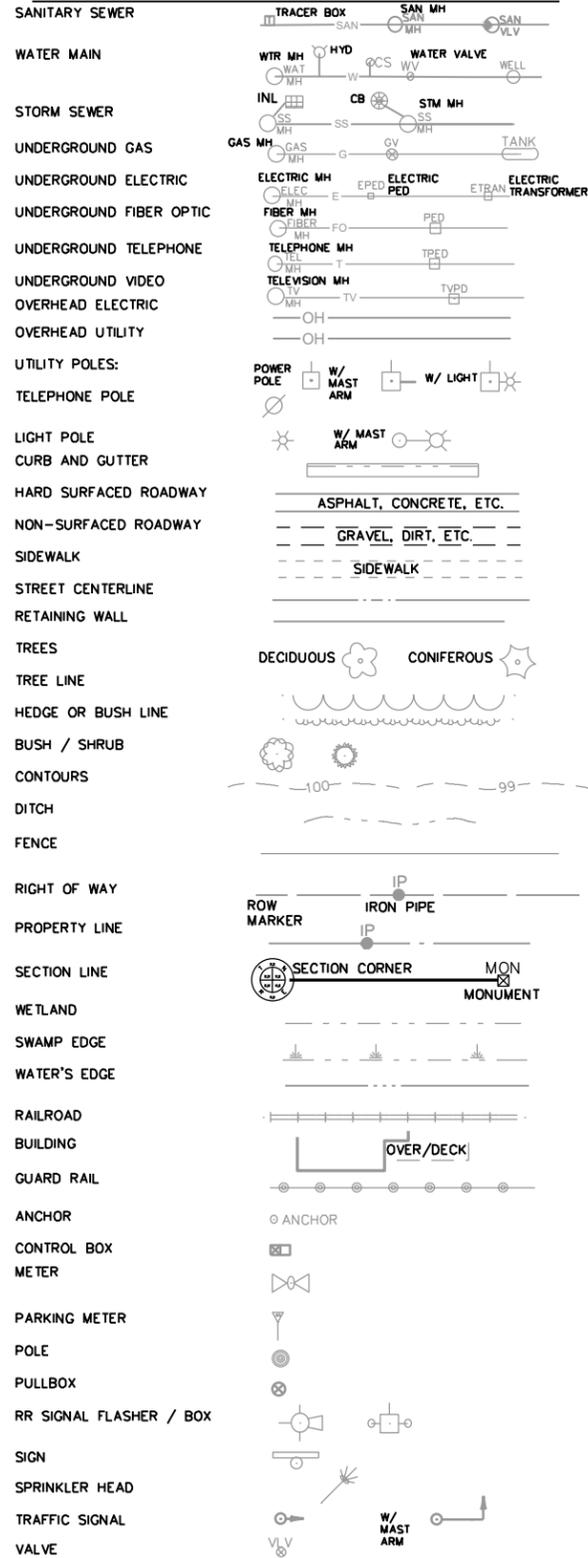


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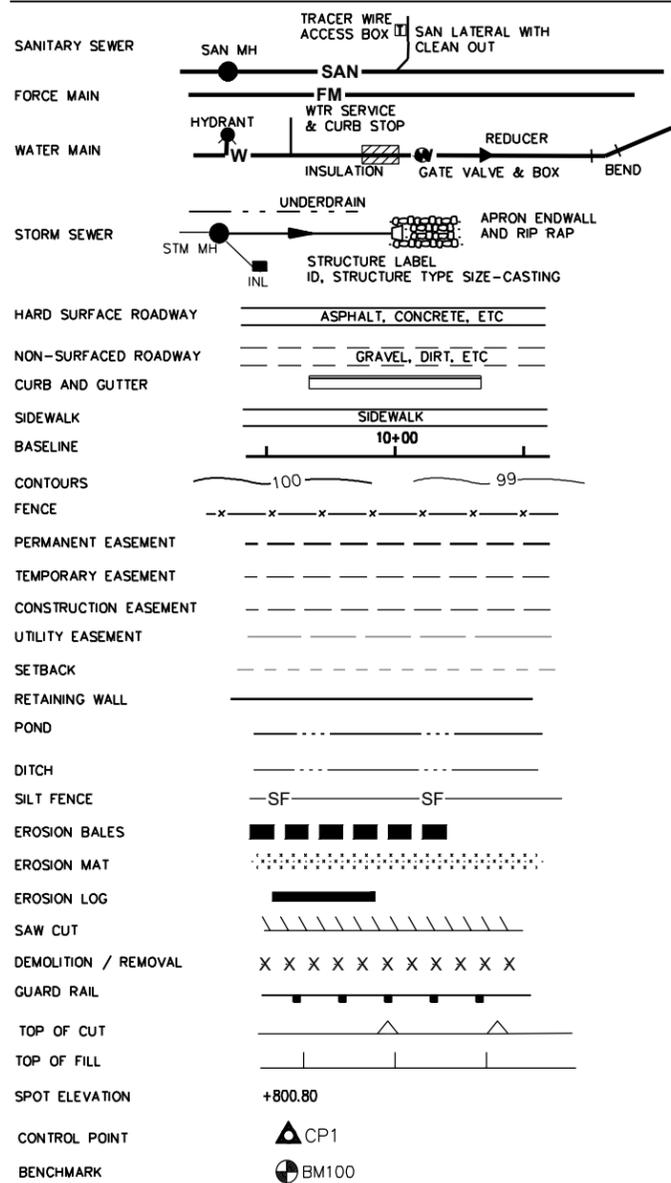
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EXISTING



NEW



AB	ANCHOR BOLT	DEFL	DEFLECTION	ID	INSIDE DIAMETER	PC	POINT OF CURVE	T&B	TOP & BOTTOM
ABV	ABOVE	DEG / °	DEGREE	IF	INSIDE FACE	PE	PRIVATE ENTRANCE	TC	TOP OF CURB
ADJ	ADJUST	DF	DRINKING FOUNTAIN	IN (")	INCHES	PED	PEDESTAL	TELE	TELEPHONE
AFF	ABOVE FINISHED FLOOR	DI	DUCTILE IRON	INCL	INCLUDE	PERF	PERFORATE	THK	THICKNESS
AL	ALUMINUM	DIA	DIAMETER	INF	INFLEUNT	PI	POINT OF INTERSECTION	THRU	THROUGH
ALT	ALTERNATE WITH	DIM	DIMENSION	INL	INLET	PKG	PARKING	TP	TELEPHONE POLE
ALT/	ALTERNATE	DISCH	DISCHARGE	INSUL	INSULATION	P	PLATE	TYP	TYPICAL
APPROX	APPROXIMATE	DN	DOWN	INT	INTERIOR	PL	PLACE	T/	TOP OF
ASPH	ASPHALT	DP	DEPTH	INV	INVERT	PL R	PROPERTY LINE	UG	UNDERGROUND GAS
AUTO	AUTOMATIC	DR	DOOR	IP	IRON PIPE	PP	POWER POLE	UE	UNDERGROUND ELECTRICAL
AVE	AVENUE	DTL	DETAIL	IPS	IRON PIPE SIZE	PSF	POUNDS PER SQUARE FOOT	UNO	UNLESS NOTED OTHERWISE
@	AT	DW	DRIVEWAY	JT	JOINT	PSI	POUNDS PER SQUARE INCH	UNEXC	UNEXCAVATED
B CRS	BASE COURSE	DWG	DRAWING	KGV	KNIFE GATE VALVE	PT	POINT OF TANGENCY	USH	UNITED STATES HIGHWAY
BC	BACK OF CURB	E	EAST	LAB	LABORATORY	PV	PLUG VALVE	UT	UNDERGROUND TELEPHONE
BD	BOARD	EA	EACH	LAV	LAVATORY	PVC	POLYVINYL CHLORIDE	UV	UNDERGROUND VIDEO
BEL	BELOW	EF	EACH FACE	LC	LENGTH OF CURVE	PVMT	PAVEMENT	V	VALVE
BETWN	BETWEEN	EFF	EFFLUENT	LF	LINEAL FEET	PW	POTABLE WATER	V&B	VALVE & BOX
BF	BACK FACE	EJ	EXPANSION JOINT	LG	LENGTH	%	PERCENT	VAR	VARIABLE
BFV	BUTTERFLY VALVE	EL	ELEVATION	LOC	LOCATION	QTY	QUANTITY	VER	VERTICAL
BIT	BITUMINOUS	ELB	ELBOW	LP	LIGHT POLE	RAD	RADIUS	VC	VERTICAL CURVE
BLD	BLIND	ELEC	ELECTRICAL	LR	LONG RADIUS	RCP	REINFORCED CONCRETE PIPE	W	WEST
BLDG	BUILDING	EQU	EQUAL	LS	LUMP SUM	RD	ROAD	W/	WITH
BLK	BLOCK	ER	END OF RADIUS	LT	LEFT	RD	ROOF DRAIN	W/O	WITHOUT
BLKG	BLOCKING	EST	ESTIMATE	MAS	MASONRY	RDWY	ROADWAY	REF	REFERENCE
BLVD	BOULEVARD	EW	EACH WAY	MAX	MAXIMUM	RED	REDUCER	WM	WATER MAIN
BLVD	BENCHMARK	EWC	ELECTRIC WATER COOLER	MECH	MECHANICAL	REF	REFERENCE	WS	WATER SURFACE
BM	BREAKOFF	EX	EXISTING	MFG	MANUFACTURER	REINF	REINFORCING	WTP	WATER TREATMENT PLANT
BRG	BEARING	EXH	EXHAUST	MH	MANHOLE	REM	REMOVE	WTR	WATER
BRK	BRICK	EXP	EXPANSION	MIN	MINIMUM	REPL	REPLACE	WWF	WELDED WIRE FABRIC
BS	BACK OF SIDEWALK	EXT	EXTERIOR	MISC	MISCELLANEOUS	REQD	REQUIRED	WWM	WOVEN WIRE MESH
BTM	BOTTOM	FD	FLOOR DRAIN	MJ	MECHANICAL JOINT	REV	REVISED	WWTP	WASTEWATER TREATMENT PLANT
BV	BALL VALVE	FDN	FOUNDATION	MP	MID POINT	RM	ROOM		
B/	BOTTOM OF	FERT	FERTILIZER	MTL	MATERIAL	RR	RAILROAD		
C&G	CURB AND GUTTER	F-F	FACE TO FACE	N	NORTH	RT	RIGHT		
CB	CATCH BASIN	FGL	FIBERGLASS	NF	NEAR FACE	RW	RIGHT OF WAY		
CF	CUBIC FOOT	FIN	FINISHED	NIC	NOT IN CONTRACT	S	SOUTH		
CHKD P	CHECKERED PLATE	FL	FLOWLINE	NO	NUMBER	SAN	SANITARY		
CJ	CAST IRON	FLG	FLANGED	NOM	NOMINAL	SAMH	SANITARY MANHOLE		
CI	CONTROL JOINT	FLR	FLOOR	NPW	NON-POTABLE WATER	SCH	SCHEDULE		
CL / C	CENTERLINE	FM	FORCE MAIN	NTS	NOT TO SCALE	SEC	SECTION		
CHL	CHLORINE	FN	FENCE	OC	ON CENTER	SF	SQUARE FOOT		
CLG	CEILING	FT (')	FOOT	OD	OUTSIDE DIAMETER	SHT	SHEET		
CLR	CLEAR	FTG	FOOTING	OE	OVERHEAD ELECTRICAL	SIM	SIMILAR		
CMP	CORRUGATED METAL PIPE	FUT	FUTURE	OF	OUTSIDE FACE	SL	SLOPE		
CMU	CONCRETE MASONRY UNIT	G	GAS	OH	OVERHEAD	SPA	SPACE		
CO	CLEANOUT	GA	GAGE	OPG	OPENING	SPEC	SPECIFICATION		
CONC	CONCRETE	GAR	GARAGE	OT	OVERHEAD TELEPHONE	SO	SQUARE		
CONN	CONNECTION	GEN	GENERAL			SS	STAINLESS STEEL		
CONST	CONSTRUCTION	GRD	GRADE, GROUND			SSMH	STORM SEWER MANHOLE		
CONST JT	CONSTRUCTION JOINT	GV	GATE VALVE			ST	STREET		
CONT	CONTINUOUS	GRAV	GRAVEL			STD	STANDARD		
CONTR	CONTRACTOR	GW	GROUNDWATER			STH	STATE TRUNK HIGHWAY		
CONTR JT	CONTRACTION JOINT					STL	STEEL		
COR	CORNER	HB	HOSE BIB			STM	STORM		
CP	CONTROL POINT	HM	HOLLOW METAL			STP	SEWAGE TREATMENT PLANT		
CPLG	COUPLING	HORZ	HORIZONTAL			SURF	SURFACE		
CRS	COURSE	HSE	HOUSE			SW	SIDEWALK		
CSP	CORRUGATED STEEL PIPE	HT	HEIGHT			SWR	SEWER		
CTG	CASTING	HW	HOT WATER			SY	SQUARE YARD		
CTH	COUNTY TRUNK HIGHWAY	HWR	HOT WATER RETURN			SYS	SYSTEM		
CULV	CULVERT	HYD	HYDRANT						
CV	CHECK VALVE								
CW	COLD WATER								
CY	CUBIC YARD								

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DR BY	ARR	DATE	7/5/2021	NO	DATE	REVISION	NO	DATE	REVISION
CHK BY	PEH								

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FERC PROJECT NO. 10489



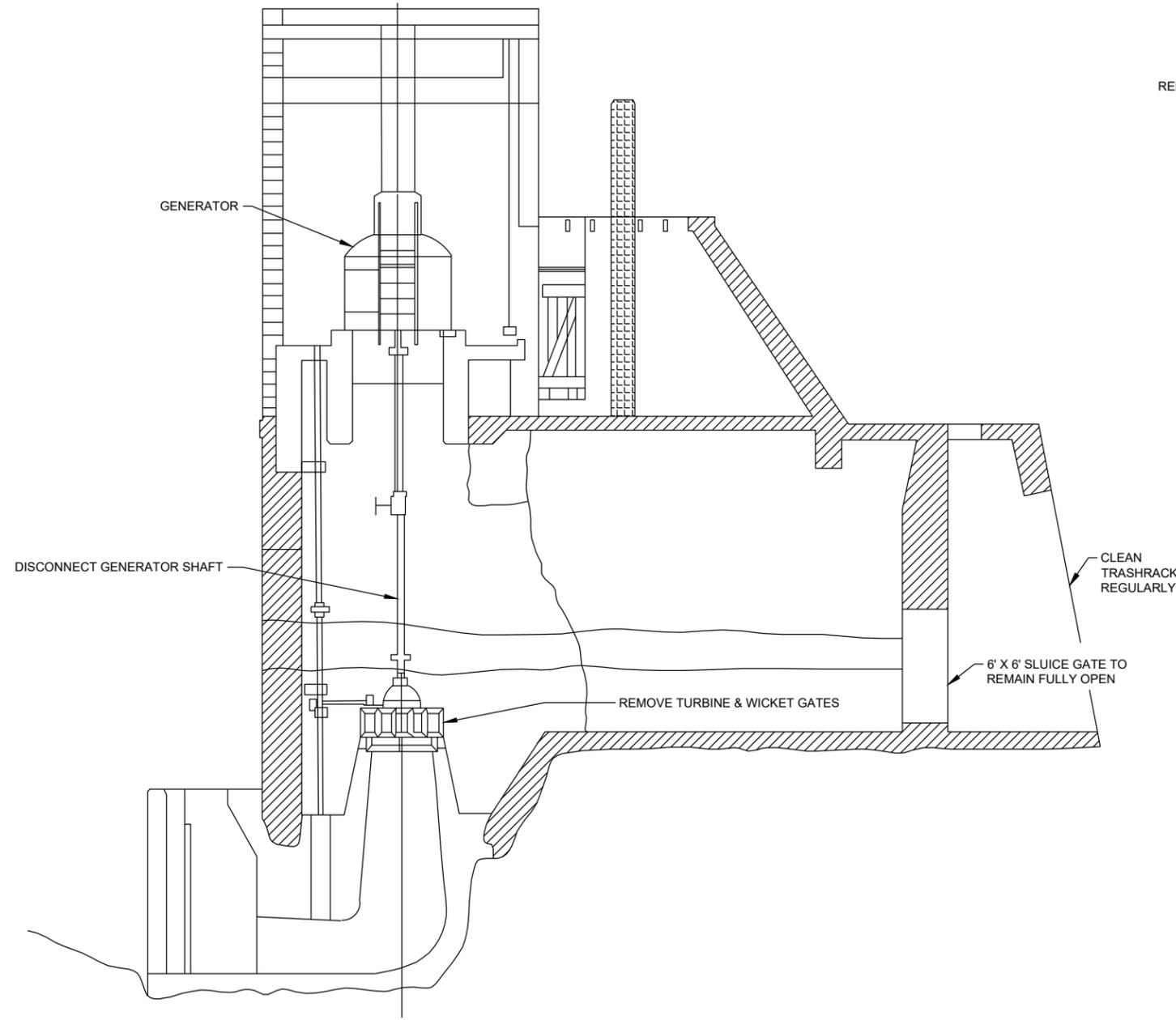
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715.834.3161

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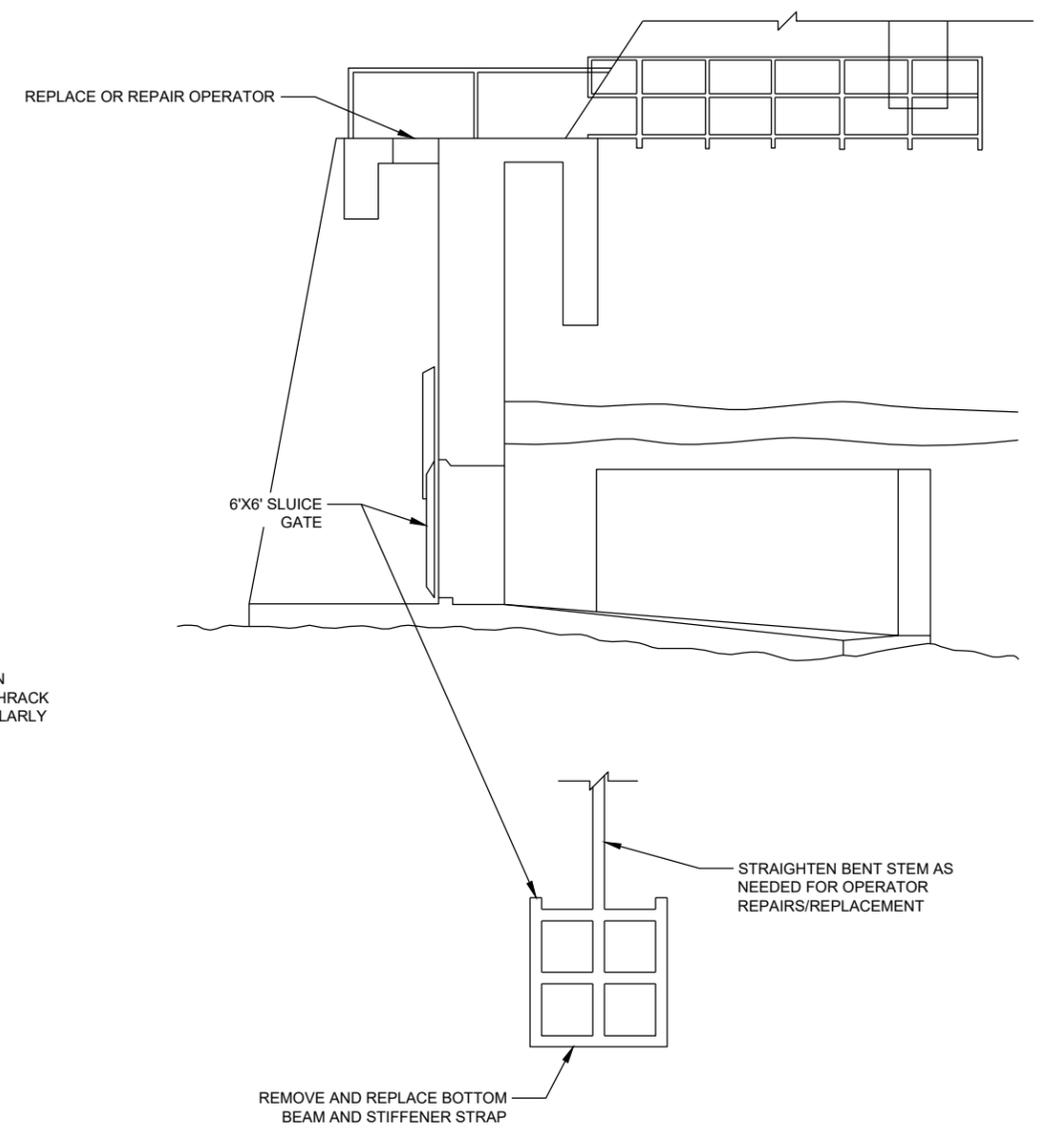
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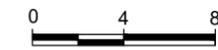
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- 2) LIFT TURBINE AND WICKET GATES FROM DRAFT TUBE
- 3) SECURE TURBINE AND WICKET GATES OUT OF FLOW PATH
- 4) REPLACE OR REPAIR GATE OPERATOR
- 5) REPAIR BENT GATE MEMBERS
- 6) CLEAN TRASH RACK REGULARLY
- 7) MONITOR PROJECT INFLOWS AND CLOSE GATES AS NEEDED TO SLOWLY LOWER LAKE LEVEL AFTER FLOODS WITH A RATE GOAL OF NO MORE THAN 24-INCHES OF WATER LEVEL DECREASE PER DAY



1 SECTION THROUGH INTAKE & GENERATOR 2
5



2 WASTEWAY SECTION



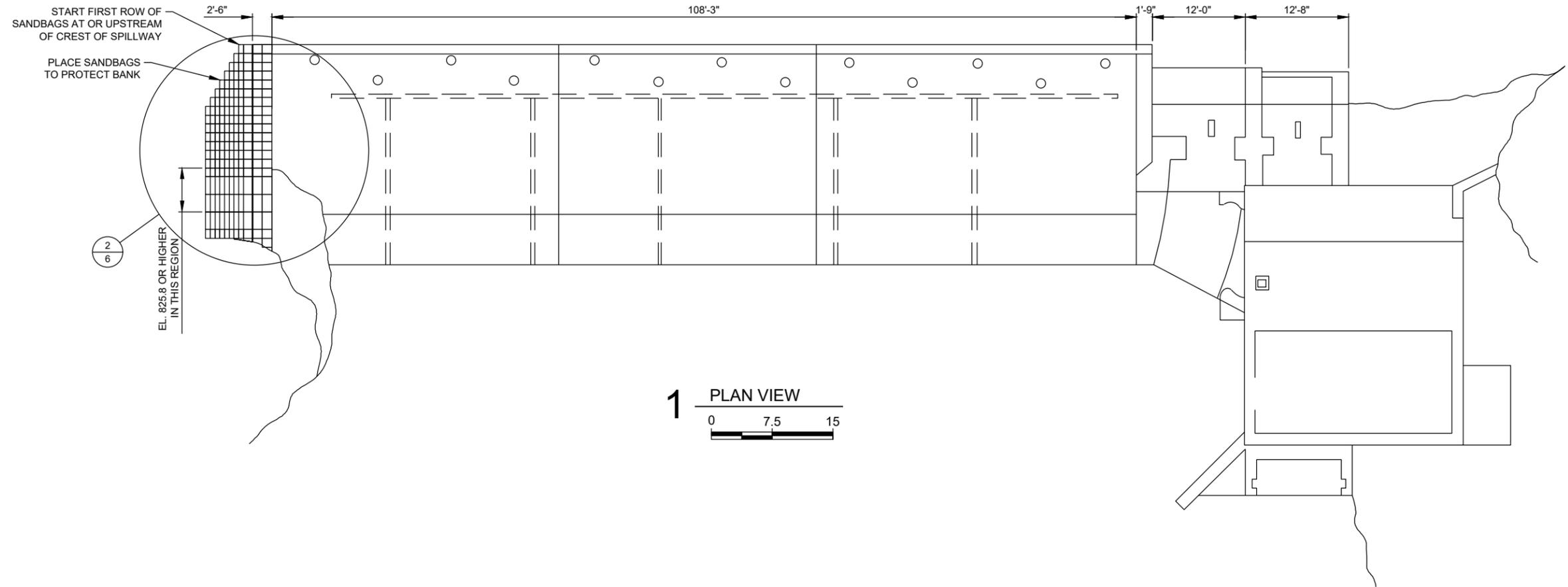
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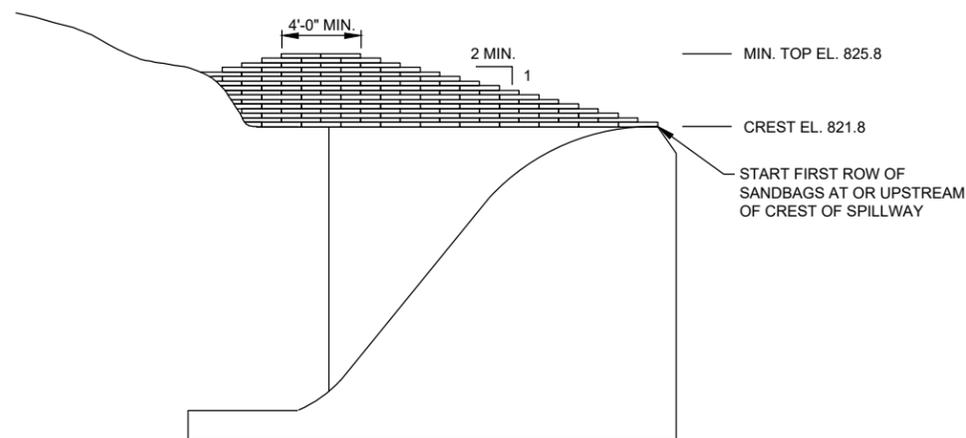
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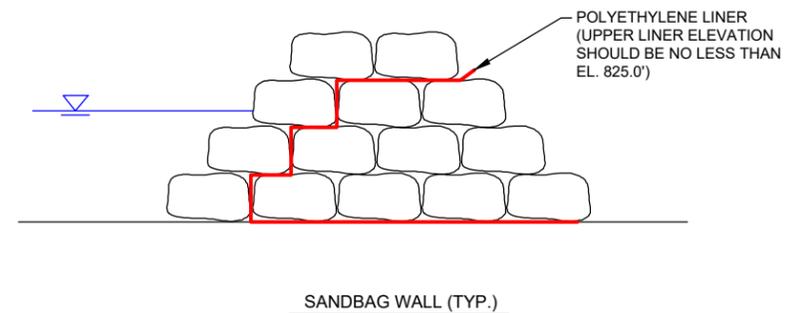
1 PLAN VIEW
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NOTES:

- 1) MUST PROTECT BANK UP TO ELEVATION OF 825.8'
- 2) ALL SANDBAGS ARE TO BE STACKED SO THAT THE LONG AXIS IS UPSTREAM TO DOWNSTREAM.
- 3) ALL SANDBAGS SHALL BE LAID IN A RUNNING BOND PATTERN.



2 CROSS SECTION
0 7.5 15



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DR BY	ARR	26-1155.40				
CHK BY	PEH	DATE	NO	DATE	REVISION	NO
		7/5/2021				

POWELL FALLS DECOMMISSIONING
FERC PROJECT NO. 10489



RIGHT ABUTMENT

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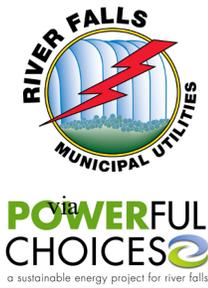
Appendix B

Rare Species Information

Filed under separate cover due to **Privileged Information**

Appendix C

Consultation Not Previously Filed with FERC



RIVER FALLS MUNICIPAL UTILITIES
ADDRESS 222 Lewis Street, River Falls, WI 54022
PHONE 715-425-0906
FAX 715-425-7217
WEBSITE www.rfmu.org

Distribution List

October 2, 2019

**RE: River Falls Hydroelectric Project, FERC Project No. 10489
Cultural Resources Study
Request for Review of the Project Area of Potential Effects (APE)**

Dear Sir or Madam:

The City of River Falls Municipal Utilities (Licensee or RFMU) is the Licensee of the River Falls Hydroelectric Project (FERC No. 10489) (Project). The Project is located along the Kinnickinnic River in the City of River Falls, in Pierce County, Wisconsin. The Project is licensed by the Federal Energy Regulatory Commission (FERC or Commission) as a two-development project. The two developments include the Junction Falls Development and the Powell Falls Development. The FERC license expires on August 31, 2023. The Licensee declared its intent to apply for relicense of the Junction Falls Development and proposed the decommissioning of the Powell Falls Development with dam removal. The Licensee is using FERC's Integrated Licensing Process (ILP) as established in regulations issued by FERC July 23, 2003 (Final Rule, Order No. 2002) and found at Title 18 CFR, Part 5. The Licensee filed a Pre-Application Document (PAD) and Notice of Intent (NOI) for the Project on August 30, 2018. FERC prepared and issued Scoping Document 1 (SD1) on October 25, 2018 and Scoping Document 2 (SD2) on February 7, 2019. On February 11, 2019, the Licensee filed its Proposed Study Plan (PSP) and on June 11, 2019, the Licensee filed its Revised Study Plan (RSP). The FERC issued the Study Plan Determination (SPD) on July 11, 2019. FERC's SPD is available at: https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20190711-3019. As described in the SPD, the Licensee is conducting a Cultural Resources Study.

The first objective of the Cultural Resources Study is to determine the Project Area of Potential Effects (APE) in consultation with the State Historic Preservation Office (SHPO) and interested Tribes. RFMU is proposing an APE as described below and as outlined in the attached figure.

Consistent with provisions of the Program Agreement (PA)¹, the Project APE includes:

1. Lands enclosed by the Project Boundary as delineated in the license;

¹ The PA is the *Programmatic Agreement among the Federal Energy Regulatory Commission; the Advisory Council on Historic Preservation; the State of Wisconsin, State Historic Preservation Officer; and the State of Michigan, State Historic Preservation Officer; for Managing Historic Properties that May Be Affected by New and Amended Licenses Issuing for the Continued Operation of Existing Hydroelectric Projects in the State of Wisconsin and Adjacent Portions of the State of Michigan*. This was executed in December 1993.

2. Attached or associated buildings and structures extending beyond the Project Boundary, which contribute to the eligibility of the hydroelectric generating facility for listing on the National Register of Historic Places; and
3. Lands or properties outside the Project Boundary, where the Project may cause changes in the character or use of historic properties, if any historic properties exist.

The Powell Falls development is proposed to be decommissioned, thus the APE also accounts for ground disturbing activities associated with decommissioning and removal. This proposed APE includes the approximate FERC Project Boundary and areas of potential land disturbance from Powell Falls decommissioning and removal activities (which already lie in the approximate FERC Project Boundary). As shown, the proposed APE is divided into two portions, the Junction Falls APE and the Powell Falls APE. This distinction was made due to the proposed action at the Project (the Junction Falls Development is proposed to be relicensed and the Powell Falls Development is proposed to be decommissioned and dam removed). A map of the proposed Project APE for the Cultural Resources Study is attached.

RFMU is requesting your comment on the proposed APE. Please provide comments within 30 days, or by November 1, 2019.

Please contact Kevin Westhuis at kwesthuis@rfcity.org, or Lesley Brotkowski, the relicensing consultant, with any questions or comments. Thank you in advance for your review of the proposed APE.

Sincerely,



Kevin Westhuis
Utility Director
City of River Falls Municipal Utilities
222 Lewis Street
River Falls, WI 54022

cc: Lesley Brotkowski, TRC
150 North Patrick Blvd., Suite 180
Brookfield, WI 53045
Phone: (402) 238-7789
Email: lbrotkowski@trccompanies.com

Attachment: Map of Proposed Project APE

**RIVER FALLS HYDROELECTRIC PROJECT, FERC No. 10489
DISTRIBUTION LIST**

Tribes

Bryan Newland
Chairman
Bay Mills Indian Community of Michigan
12140 W. Lakeshore Drive
Brimley, MI 49715-9319

Anthony Reider
Chairperson
Flandreau Santee Sioux Tribe of South
Dakota
P.O. Box 283
Flandreau, SD 57028-0283

Kevin DuPuis
Chairman
Fond du Lac Reservation Bus. Committee
1720 Big Lake Road
Cloquet, MN 55720-9702

Chairman
Forest County Potawatomi Community of
Wisconsin
P.O. Box 340
Crandon, WI 54520

Andrew "Andy" Werk Jr.
President
Fort Belknap Indian Community of the Fort
Belknap Reservation of Montana
656 Agency Main Street
Harlem, MT 59526-9455

Chairman
Grand Portage Reservation Bus. Committee
P.O. Box 428
Grand Portage, MN 55605-0428

Wilfrid Cleveland
President
Ho-Chunk Nation of Wisconsin
P.O. Box 667
Black River Falls, WI 54615-0667

David Pacheco
Chairman
Kickapoo Tribe of Oklahoma
P.O. Box 70
McLoud, OK 74851

Tribal Chairperson
Lac Courte Oreilles Band of Chippewa
Indians
13394 W. Trepania Road, Bldg No. 1
Hayward, WI 54843-2186

Henry St. Germaine
Chairperson
Lac du Flambeau Band of Lake Superior
Chippewa Indians of the Lac du Flambeau
Reservation of Wisconsin
P.O. Box 67
Lac du Flambeau, WI 54538

President
Lower Sioux Indian Community in the State
of Minnesota
P.O. Box 308
Morton, MN 56270

Gary Besaw
Chairman
Menominee Indian Tribe of Wisconsin
P.O. Box 910
Keshena, WI 54135

Tribal Chairman
Mole Lake Band of Chippewa Indians
3051 Sand Lake Road
Crandon, WI 54520-9801

Tehassi Hill
Tribal Chairman
Oneida Tribe of Indians of Wisconsin
P.O. Box 365
Oneida, WI 54155-0365

Ronald Johnson
Chairperson
Prairie Island Indian Community in the State
of Minnesota
5636 Sturgeon Lake Road
Welch, MN 55089

Richard "Rick" Peterson
Tribal Chair
Red Cliff Band of Lake Superior Chippewa
Indians
88455 Pike Road, Hwy 13
Bayfield, WI 54814

Roger Trudell
Chairperson
Santee Sioux Nation, Nebraska
425 Frazier Ave. N. Suite 2
Niobrara, NE 68760-8605

Chairperson
Sisseton-Wahpeton Oyate of the Lake
Traverse Reservation, South Dakota
P.O. Box 509
Agency Village, SD 57262-0509

Tribal Chairman
Sokaogon Chippewa Community
3051 Sand Lake Road
Crandon, WI 54520-9801

Myra Pearson
Chairwoman
Spirit Lake Tribe, North Dakota
P.O. Box 359
Fort Totten, ND 58335-0359

Lewis Taylor
Chairman
St Croix Band of Lake Superior Chippewa
24663 Angeline Avenue
Webster, WI 54893-9246

Shannon Holsey
Tribal President
Stockbridge Munsee Tribe of Mohican
Indians
N8476 MoHeConNuck Road
Bowler, WI 54416

Bonney Hartley
THPO
Stockbridge Munsee Tribe of Mohican
Indians
65 1st Street
Troy, New York 12180

Kevin Jensvold
Chairperson
Upper Sioux Community Minnesota
P.O. Box 147
Granite Falls, MN 56241

State Agencies

Tyler B. Howe
State Historic Preservation Office
Wisconsin Historical Society
816 State Street
Madison, WI 53706

Powell Falls and Junction Falls Hydroelectric Project

Proposed Area of Potential Effect (APE)



Project Location

FERC Project Number 10489
Pierce County, Wisconsin
June 7, 2019

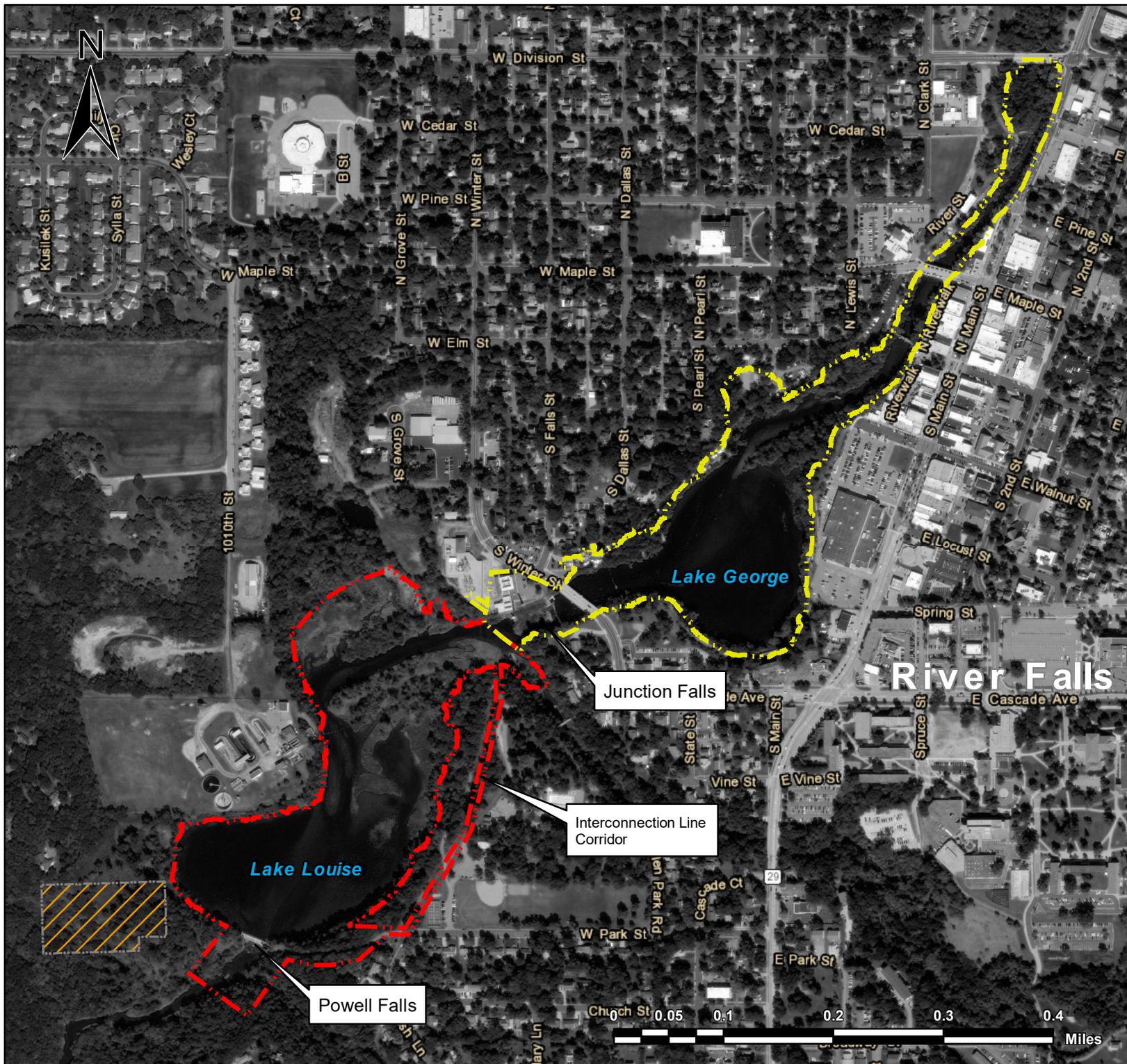
Legend

 Foster Cemetery

Proposed APE

 Junction Falls

 Powell Falls



RIVER FALLS
MUNICIPAL UTILITIES

REQUEST FOR SHPO COMMENT AND CONSULTATION ON A FEDERAL UNDERTAKING

Submit one copy with each undertaking for which our comment is requested. Please print or type. Return to:

Wisconsin Historical Society, Division of Historic Preservation, Office of Preservation Planning, 816 State Street, Madison, WI

Please Check All Boxes and Include All of the Following Information, as Applicable:

RECEIVED
OCT 07 2019
BY:

I. GENERAL INFORMATION

- This is a new submittal.
 - This is supplemental information relating to Case #: 13-0908/PI and title: _____
 - This project is being undertaken pursuant to the terms and conditions of a programmatic or other interagency agreement.
- The title of the agreement is Programmatic Agreement for Wisconsin

- a. Federal Agency Jurisdiction (Agency providing funds, assistance, license, permit): FERC No. 10489
- b. Federal Agency Contact Person: Shana Wiseman Phone: 202-502-8736
- c. Project Contact Person: Kevin Westhuis Phone: (715) 426-3442
- d. Return Address: 222 Lewis Street, River Falls, WI Zip Code: 54022
- e. Email Address: kwesthuis@rfcity.org
- f. Project Name: River Falls Hydroelectric Project
- g. Project Street Address: (see attached map)
- h. County: Pierce City: River Falls Zip Code: 54022
- i. Project Location: Township 27 N, Range 19 W, E/W (circle one), Section 1, 2, Quarter Sections _____
- j. Project Narrative Description—Attach Information as Necessary.
- k. Area of Potential Effect (APE). Attach Copy of U.S.G.S. 7.5 Minute Topographic Quadrangle Showing APE.

II. IDENTIFICATION OF HISTORIC PROPERTIES

- Historic Properties are located within the project APE per 36 CFR 800.4. Attach supporting materials.
- Historic Properties are not located within the project APE per 36 CFR 800.4. Attach supporting materials.

III. FINDINGS

- No historic properties will be affected (i.e., none is present or there are historic properties present but the project will have no effect upon them). Attach necessary documentation, as described at 36 CFR 800.11.
- The proposed undertaking will have no adverse effect on one or more historic properties located within the project APE under 36 CFR 800.5. Attach necessary documentation, as described at 36 CFR 800.11.
- The proposed undertaking will result in an adverse effect to one or more historic properties and the applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect per 36 CFR 800.6. Attach necessary documentation, as described at 36 CFR 800.11, with a proposed plan to resolve adverse effect(s).

Authorized Signature: Lesley Brotkowski Date: October 2, 2019

Type or print name: Lesley Brotkowski, TRC Environmental

IV. STATE HISTORIC PRESERVATION OFFICE COMMENTS

- Agree with the finding in section III above.
 - Object to the finding for reasons indicated in attached letter.
 - Cannot review until information is sent as follows: _____
 - Other, continued consultation Please see letter, TBH
- Authorized Signature: [Signature] Date: 10-October-2019



October 10, 2019

City of River Falls
Municipal Utilities
Kevin Westhuis
Utility Director
222 Lewis Street
River Falls, WI 54022

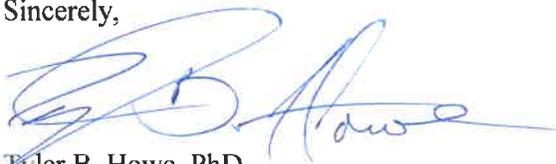
PROJECT: FERC No. 10489, Project No. P-10489-000, Request for Review of the Project Area of Potential Effect (APE) – Powell Falls decommissioning

Mr. Westhuis:

The Wisconsin Historical Society State Historic Preservation Office (SHPO) has reviewed the above referenced project pursuant to §36CFR800. We concur with the recommended project Area of Potential Effect (APE) regarding the proposed Powell Falls decommissioning and dam removal. We stand ready to further consult regarding the removal of the dam, and all ancillary cultural resource issues regarding this proposed decommissioning project.

Please do not hesitate to contact me should you have any additional questions or concerns.

Sincerely,



Tyler B. Howe, PhD

Compliance Section Manager
Wisconsin State Historic Preservation Office
608-264-6508
tyler.howe@wisconsinhistory.org



WISCONSIN
HISTORICAL
SOCIETY

February 20, 2020

River Falls Municipal Utilities
Kevin Westhuis
Utility Director
222 Lewis Street
River Falls, WI 54022

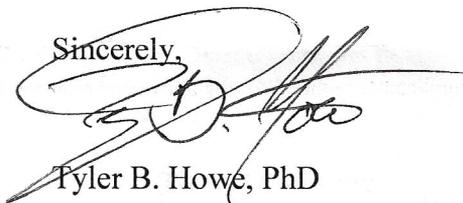
PROJECT: FERC No. 10489, River Falls Hydroelectric Project – Initial Study Report –
Architectural Resources Survey

Mr. Westhuis:

The Wisconsin Historical Society State Historic Preservation Office (SHPO) has reviewed the above referenced project pursuant to 36 CFR §800. The SHPO has reviewed, and concurs with the findings within Appendix E – Architectural Resources Survey. In particular, the SHPO concurs with the architectural historian's recommendations that the Junction Falls development (AHI 25348) is not eligible for inclusion on the National Register of Historic Places (NRHP). Likewise, the SHPO concurs with the architectural historian's recommendations that the Powell Falls development (AHI 240830) is not eligible for inclusion on the NRHP. As such, the SHPO concurs with, and accepts the findings of the architectural resources survey included as Appendix E of the River Falls Hydro Initial Study Report. We look forward to continue to consult on 36 CFR §800 related undertakings with River Falls Municipal Utilities, and the FERC for this project.

Please do not hesitate to contact me should you have any additional questions or concerns.

Sincerely,



Tyler B. Howe, PhD

Compliance Section Manager
Wisconsin State Historic Preservation Office
608-264-6508
tyler.howe@wisconsinhistory.org

C: Lesley Brotkowski

Collecting, Preserving, and Sharing Stories since 1846
816 State Street Madison, Wisconsin 53706

wisconsinhistory.org

REQUEST FOR SHPO COMMENT AND CONSULTATION ON A FEDERAL UNDERTAKING

Submit one copy with each undertaking for which our comment is requested. Please print or type. Return to:

Wisconsin Historical Society, Division of Historic Preservation, Office of Preservation Planning, 816 State Street, Madison, WI 53706

Please Check All Boxes and Include All of the Following Information, as Applicable:

I. GENERAL INFORMATION

- This is a new submittal.
- This is supplemental information relating to Case #: 13-0908/PI and title: _____
- This project is being undertaken pursuant to the terms and conditions of a programmatic or other interagency agreement. The title of the agreement is Programmatic Agreement for Wisconsin

- a. Federal Agency Jurisdiction (Agency providing funds, assistance, license, permit): FERC No. 10489
- b. Federal Agency Contact Person: Shana Wiseman Phone: 202-502-8736
- c. Project Contact Person: Kevin Westhuis Phone: (715) 426-3442
- d. Return Address: 222 Lewis Street, River Falls, WI Zip Code: 54022
- e. Email Address: kwesthuis@rfcity.org
- f. Project Name: River Falls Hydroelectric Project
- g. Project Street Address: (see attached map)
- h. County: Pierce City: River Falls Zip Code: 54022
- i. Project Location: Township 27 N, Range 19 W, E/W (circle one), Section 1, 2, Quarter Sections _____
- j. Project Narrative Description—Attach Information as Necessary.
- k. Area of Potential Effect (APE). Attach Copy of U.S.G.S. 7.5 Minute Topographic Quadrangle Showing APE.

II. IDENTIFICATION OF HISTORIC PROPERTIES

- Historic Properties are located within the project APE per 36 CFR 800.4. Attach supporting materials.
- Historic Properties are not located within the project APE per 36 CFR 800.4. Attach supporting materials.

III. FINDINGS

- No historic properties will be affected (i.e., none is present or there are historic properties present but the project will have no effect upon them). Attach necessary documentation, as described at 36 CFR 800.11.
- The proposed undertaking will have no adverse effect on one or more historic properties located within the project APE under 36 CFR 800.5. Attach necessary documentation, as described at 36 CFR 800.11.
- The proposed undertaking will result in an adverse effect to one or more historic properties and the applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect per 36 CFR 800.6. Attach necessary documentation, as described at 36 CFR 800.11, with a proposed plan to resolve adverse effect(s).

Authorized Signature: Lesley Brotkowski Date: January 31, 2020

Type or print name: Lesley Brotkowski, TRC Environmental

IV. STATE HISTORIC PRESERVATION OFFICE COMMENTS

- Agree with the finding in section III above.
- Object to the finding for reasons indicated in attached letter.
- Cannot review until information is sent as follows: _____

please note: Architectural Survey comments only, TBH 20-Feb-2020

Authorized Signature: [Signature] Date: 20 Feb 2020

Meeting Summary

River Falls Hydroelectric Project – Lake Louise Decommissioning Process Discussion

January 26, 2021, 10:30 – 11:30 AM CST

Attendees:

Scott Airato, Federal Energy Regulatory Commission (FERC)
Janet Hetzel, FERC
Janet Oakley, FERC
Diana Shannon, FERC
Shana Wiseman, FERC
Cheryl Laatsch, Wisconsin Department of Natural Resources (Wisconsin DNR)
Mike Rogne, Wisconsin DNR
Kevin Westhuis, River Falls Municipal Utilities (RFMU)
Pete Haug, Ayres
Lesley Brotkowski, TRC

Purpose of call: Follow up discussion on FERC and Wisconsin DNR processes for RFMU's preferred option (below), a modified version of Option 3 from that presented in the Dec 22, 2020 FERC filing:

Option 3: Keep Lake Louise drawn down, but fix gate so it opens more (and more easily) and pull turbine, start sediment removal downstream of dam in 2021, surrender FERC license for Powell (2022), and apply under state jurisdiction to remove dam after amending FERC license. Site restoration expected to be complete in 2026.

1) Status Update

- On December 22, 2020, RFMU filed the Post-Flood Dam Safety Inspection and Repair Options Letter for Powell Falls with FERC. The report outlined five action options following the dam safety inspection.
- Action options were presented at a Joint Workshop with the Common Council and Utility Advisory Board on January 19, 2021. Option 3 was presented by staff as the recommended option.
- RFMU plans to submit an amendment application to FERC to decommission the Powell Falls Development, which will include maintaining the drawn down condition of Lake Louise, a physical disconnection from the utility grid (pulling breakers, locking out equipment controls), and improving flow management by removing the turbine and improving sluice gate operation, but otherwise leaving the facilities in place. RFMU plans to pursue dam removal under state jurisdiction after the amendment application to remove the Powell Falls Development from the FERC license is approved by FERC.

2) Process Discussion

- a) Pete reviewed RFMU's proposed timeline and current understanding of the FERC/Wisconsin DNR approval process.
- b) FERC amendment application to decommission Powell Falls and remove from FERC license:
 - Powell Falls Application will include:
 - Maintain drawdown
 - Disconnect from utility grid
 - Remove turbine and sandbag right abutment
 - Dam removal through the state process
 - Implementation schedule
 - FERC recommends one amendment application for the removal of Powell Falls from the license and dam safety modifications/turbine pulling. DHAC and D2SI will coordinate internally on the application.
 - Use the terms "decommissioning" and "removal of Powell Falls from license" opposed to "license surrender" as both developments are currently under one FERC license and we're proposing Junction Falls will be relicensed.
 - License application will include Junction Falls only. DO NOT include decommissioning plan in the draft license application (DLA) or Final License Application (FLA).
- c) Wisconsin DNR process:
 - Chapter 30 permit for dredging and access road construction
 - A one month review timeline is aggressive, but Cheryl will work with staff to make sure the application is reviewed as quickly as possible. A Water Quality Certificate General Permit application is recommended opposed to working under a Utility General Permit.
 - Wisconsin DNR Municipal grant application (2024)
 - Chapter 31 permit - removal plans and specs to Wisconsin DNR August 2024 (need USACE permit too)
- d) Updated Study Report (USR) & USR Meeting
 - Kevin and Lesley will provide an update on the 2020 flood and FERC process update (amendment application for decommissioning of Powell Falls, Junction Falls only in the DLA/FLA, and dam removal through Wisconsin DNR) at the beginning of the February 2021 USR Meeting. FERC and Wisconsin DNR will be available to answer questions as needed. We will make it clear that the Powell Falls dam removal is being taken out of the FERC process, and while the process has changed, the ultimate proposal and date of dam removal has not.
 - In the USR, RFMU should note the variance from the approved study plan for the Decommissioning Plan and note why the variance occurred – explaining the 2020 flood, damage to the Powell Falls dam, and the change in process. The updated Decommissioning Plan is now a planning document on process, opposed to an application to FERC for dam removal.

3) Next Steps

- a) Wisconsin DNR asked if FERC would like Wisconsin DNR to provide a comment on the change of process for the amendment application. FERC indicated that a letter of support would be helpful. Wisconsin DNR could include this comment in their USR comments or separately, specific to support of the change of process with dam removal through the state. RFMU would prefer these comments to be separate from the USR comments. Cheryl would like a formal

request from RFMU asking for a letter of support (could be an email) and a timeline of when we'd like the letter.

- b) Set up another meeting with Wisconsin DNR to discuss timeline for approvals for next steps (road planning/construction, etc.) once the City has the timeline firmed up.
- c) RFMU plans to submit an amendment application to FERC in 2021.

Brotkowski, Lesley

From: Brotkowski, Lesley
Sent: Tuesday, February 23, 2021 9:38 AM
To: TYLER B HOWE
Subject: WI SHPO comments regarding Phase I archaeological survey, Appendix H, River Falls hydro (FERC # 10489) Updated Study Report

Thank you for your review and response Tyler.

Have a nice day!
Lesley

From: TYLER B HOWE <tyler.howe@wisconsinhistory.org>
Sent: Monday, February 22, 2021 3:19 PM
To: Brotkowski, Lesley <LBrotkowski@trccompanies.com>
Subject: [EXTERNAL] WI SHPO comments regarding Phase I archaeological survey, Appendix H, River Falls hydro (FERC # 10489) Updated Study Report

This is an **EXTERNAL** email. Do not click links or open attachments unless you validate the sender and know the content is safe.

Good afternoon Lesley:

I have reviewed the materials provided in the Updated Survey Report, Appendix H - Archaeological Survey - River Falls hydroelectric project. It is the opinion of the WI SHPO the recent Phase I archaeological field survey was conducted under WI field research protocols and directed by an individual meeting the Secretary of Interior's Standards for Archaeology. Furthermore, the SHPO concurs with the professional archaeologist's recommendations that no cultural resources included on, or eligible for the National Register of Historic Places (NRHP) were encountered during the archaeological field work. As such, it is the opinion of the SHPO the proposed federal undertaking should not pose an adverse effect to cultural resources. As such, we believe the hydro related projects associated with this relicensing may proceed to the next steps. We stand ready to continue our consultations throughout this renewal process.

Please do not hesitate to contact me should you have any questions or concerns.

All the best,

Tyler

Tyler B. Howe, PhD

State Archaeologist
Compliance Section Manager
State Historic Preservation Office
Wisconsin Historical Society

(608) 264-6508

<https://www.wisconsinhistory.org>

Appendix D
Consultation Summary

Appendix D Summary Response to Comments on the Draft Amendment Application

No.	Topic	Comment Summary	Licensee Response
Wisconsin DNR, June 4, 2021			
1	Junction Falls	Requests that the Wisconsin DNR safety engineer be involved in the review of the plans for the hydraulic capacity improvements and the right abutment stabilization, as the dam is planned to change to state regulatory authority, and any follow-up to dam repair will fall under state authority.	Plans for the hydraulic capacity improvements and right abutment stabilization are included herein. RFMU welcomes comments on the plans from the Wisconsin DNR safety engineer.
2	Sediment/ Erosion	The City of River Falls discusses their interest in reducing sediment/erosion within the impoundment and in the new river channel. The City says they will take action “if conditions dictate and funding becomes available”. The Wisconsin DNR request the City to describe in detail what is meant by “if conditions dictate” and who will make that determination.	See response to No. 5 below. Sediment management improvements have been removed from the FERC Amendment Application.
3	Sediment/ Erosion	The draft amendment implies that the City will only take actions to address sediment transport and erosion if funding is available. The Wisconsin DNR asks the City to describe who will determine if funding is available.	See response to No. 5 below. Sediment management improvements have been removed from the FERC Amendment Application.

River Falls Hydroelectric Project FERC No. P-10489
Appendix D
Response to Draft Amendment Application Comments

No.	Topic	Comment Summary	Licensee Response
4	Drawdown/Site Restoration	The Wisconsin DNR kindly reminds the City that they are responsible for the drawdown, impacts from the drawdown, and site restoration.	Comment acknowledged.
5	Transfer dam to state jurisdiction	In lieu of asking for permissions to address site stability and erosion from FERC, the Wisconsin DNR suggests that the City proceed with the license amendment to transfer the dam to state jurisdiction, and to allow the Wisconsin DNR to work with the City directly on site stability and associated permitting.	RFMU has revised the amendment application to exclude sediment management improvements and associated activities that would that require state permitting. RFMU will work with the Wisconsin DNR on site stability and associated permitting after the dam has transferred to state jurisdiction.
Wisconsin SHPO, May 13, 2021			
1	Decommissioning of Powell Falls	Wisconsin SHPO finds that no eligible properties will be affected (i.e. none are present or there are historic properties present but the project will have no effect upon them). As such, it is the opinion of the Wisconsin SHPO the proposed federal undertaking may proceed as planned and the email serves as official concurrence for the project. SHPO requests notification of the decommissioning procedures, and any photographs illustrating the undertaking.	Comment acknowledged. Lesley Brotkowski responded via e-mail on May 13 th stating that RFMU will send an update on the decommissioning and photos per Wisconsin SHPO's request.

Whelpley, Angela

From: Blair, Michelle A. <mblair@trccompanies.com>
Sent: Wednesday, May 5, 2021 1:22 PM
To: American Whitewater; Andrew Werk Jr; angietornes@gmail.com; Anthony Reider; Bonney Hartley; Bryan Newland; Cheryl Laatsch; Cindy Campbell St. Croix County Clerk; City of Cottage Grove; City of Hastings (dwietecha@hastingsmn.gov); City of Hudson; City of River Falls; City of Stillwater; City of Woodbury; Daniel Munson; David Thomson; Deb Ryun; Fond du Lac Reservation Bus Committee; Forest County Potawatomi Community; Friends of the Kinni; Grand Portage Business Committee; Hector Santiago; Ho-Chunk Nation of Wisconsin (marlon.whiteeagle@ho-chunk.com); Hove Auto Body LLC; Kathleen Angel; Kickapoo Tribe of Oklahoma; Kinnickinnic River Land Trust; Lac Courte Oreilles Band of Chippewa Indians; Lac du Flambeau Band of Lake Superior Chippewa Indians; Lil Jonas; Lower Sioux Indian Community; Menominee Indian Tribe of Wisconsin; Mole Lake Band of Chippewa Indians; Myra Pearson - Sprit Lake Nation; Nick Utrup; Northwest Regional Planning Commission; Oneida Tribe of Indians of Wisconsin; Patricia La Rue (patricia.larue.org@gmail.com); Pierce County Board of Supervisors Chair; Pierce County, Wisconsin; Prairie Island Indian Community of Minnesota; Richard Peterson; River Alliance of Wisconsin; River City Rentals of Wisconsin, LLC; Robert Chambers; Santee Sioux Nation; Shannon Holsey; Sisseton Wahpeton Oyate of the Lake; Sokaogon Chippewa Community; St. Croix County, Wisconsin; Susan Rosebrough; Trout Unlimited Driftless Area Restoration Effort; Trout Unlimited, Kiap TU Wish Chapter; Tyler Howe; University of Wisconsin Extension; Upper Sioux Community Minnesota; Wisconsin COOP Fishery Research Unit; Wisconsin Valley Improvement Company
Cc: shana.wiseman@ferc.gov; Diana.Shannon@ferc.gov; scott.airato@ferc.gov; Kevin Westhuis; Lesley Brotkowski; Haug, Peter; Whelpley, Angela
Subject: River Falls draft Amendment Application
Attachments: River Falls Draft Amendment Application.pdf

Good afternoon –

River Falls Municipal Utilities (RFMU) is distributing the attached draft Amendment Application for the River Falls Hydroelectric Project (FERC No. 10489) for review and comment. RFMU is providing a copy of the draft Amendment Application to appropriate federal and state agencies, Tribes, local governments, and members of the public interested in the proceeding, as set forth on the attached distribution list. RFMU is requesting review and comment on the draft Amendment Application by June 4, 2021.

If there are any questions or comments regarding this draft Amendment Application, please contact Kevin Westhuis at (715) 426-3442 or by email at kwesthuis@rfcity.org or Lesley Brotkowski at (715) 318-3729 or by email at Lesley.Brotkowski@kleinschmidtgroup.com.

Michelle Blair
Project Coordinator



14 Gabriel Drive, Augusta, ME 04330
T 207.620.3845 | F 207.621.8226
[LinkedIn](#) | [Twitter](#) | [Blog](#) | TRCcompanies.com

Whelpley, Angela

From: Laatsch, Cheryl - DNR <Cheryl.Laatsch@wisconsin.gov>
Sent: Friday, June 4, 2021 3:45 PM
To: Kevin Westhuis; Lesley Brotkowski
Subject: WDNR Comments on Draft License Amendment for River Falls

Dear Mr. Westhuis and Mrs. Brotkowski:

The City of River Falls will be submitting an Amendment Application for the decommissioning of the Powell Falls Development and removal from the FERC license. Specifically, the Amendment will request that the impoundment not be refilled, and power generation will not resume at the Powell Falls Development. Additionally, the City of River Falls plans to request approval to proceed with the hydraulic capacity, stability, and sediment management improvements that were described in the Draft Amendment Application.

The Wisconsin Department of Natural Resources (WDNR) offers the following comments on the Draft Amendment Application.

1. WDNR asks that our dam safety engineer be involved in the review of the plans for the hydraulic capacity improvements and the right abutment stabilization, as the dam is planned to change to state regulatory authority, and any follow-up to dam repair will fall under state authority.
2. The City of River Falls discusses their interest in reducing sediment/erosion within the impoundment and in the new river channel. The City says they will take action "if conditions dictate and funding becomes available". Please describe in detail what is meant by "if conditions dictate" and who will make that determination.
3. The draft amendment implies that the City will only take actions to address sediment transport and erosion if funding is available. Please describe who will determine if funding is available.
4. The WDNR kindly reminds the City that they are responsible for the drawdown, impacts from the drawdown, and site restoration.
5. In lieu of asking for permissions to address site stability and erosion from FERC, the WDNR suggests that the City proceed with the license amendment to transfer the dam to state jurisdiction, and to allow the WDNR to work with the City directly on site stability and associated permitting.

The WDNR appreciates the opportunity to work with the City on this complex project. If you have any questions, or would like to discuss our comments, please contact me at cheryl.laatsch@wisconsin.gov.

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Cheryl Laatsch
Statewide FERC Coordinator
Bureau of Environmental Analysis and Sustainability
Wisconsin Dept of Natural Resources
N7725 Hwy 28
Horicon WI 53032
(T) 920-387-7869 (Fax) 920-387-7888
Cheryl.laatsch@wisconsin.gov



Whelpley, Angela

From: Lesley Brotkowski <Lesley.Brotkowski@kleinschmidtgroup.com>
Sent: Thursday, May 13, 2021 12:16 PM
To: tyler.howe@wisconsinhistory.org
Cc: Kevin Westhuis; Blair, Michelle A.; Haug, Peter
Subject: RE: SHPO Review: 13-0908/PI - FERC No. 10489 - River Falls Hydro

Tyler,

Thank you for your review of the draft FERC amendment application for the Powell Falls Hydroelectric Project decommissioning. We will send an update on the decommissioning and photos per your request below.

Thank you,

Lesley Brotkowski
Senior Licensing Coordinator

Office: 715-318-3729
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From: tyler.howe@wisconsinhistory.org <tyler.howe@wisconsinhistory.org>
Sent: Thursday, May 13, 2021 10:59 AM
To: Lesley Brotkowski <Lesley.Brotkowski@kleinschmidtgroup.com>
Subject: SHPO Review: 13-0908/PI - FERC No. 10489 - River Falls Hydro

Good morning Lesley:

We have completed our review of WHS #13-0908, River Falls Hydro, Draft Amendment Application for Powell Falls Decommissioning, and find that no eligible properties will be affected (i.e. none are present or there are historic properties present but the project will have no effect upon them).

As such, it is the opinion of the WI SHPO the proposed federal undertaking may proceed as planned. If your plans change or cultural materials/human remains are found during the project, please halt all work and contact our office.

The WI SHPO requests notification of the decommissioning procedures, and any photographs illustrating the undertaking so we may update our AHI database.

Please use this email as your official SHPO concurrence for the project. If you require a hard copy signed form, please contact me and I will provide you a signed copy as soon as possible.

All the best,

Tyler

Tyler B. Howe, PhD
State Archaeologist
Compliance Section Manager
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Appendix E

Existing FERC License and Amendments

44 FERC ¶ 62,298

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

River Falls Municipal Utility

Project No. 10489-000
Wisconsin

ORDER ISSUING LICENSE
(Minor Project)

(Issued September 27, 1988)

River Falls Municipal Utility filed a license application under Part I of the Federal Power Act (Act) to operate and maintain the constructed River Falls Project located on the Kinnickinnic River, in Pierce County, Wisconsin. The project would affect the interests of interstate or foreign commerce.

Notice of the application has been published. No protests were filed in this proceeding, and no agency objected to issuance of this license. Comments received from interested agencies and individuals have been fully considered in determining whether to issue this license.

The State of Wisconsin Department of Natural Resources (DNR) filed a motion to intervene in this proceeding, requesting that certain conditions be included in any license issued. The DNR concerns have been addressed in the environmental assessment (EA) for the River Falls Project and provided for by license articles 401, 402 and 403.

Section 10(a)(2)-Comprehensive Plans

Section 10(a)(2) of the Act requires the Commission to consider the extent to which a project is consistent with federal or state comprehensive plans (where they exist) for improving, developing, or conserving a waterway or waterways affected by the project. The Commission provided an interpretation of comprehensive plans under section 10(a)(2) ^{1/} that is revised by Order Granting Rehearing, issued April 27, 1988. ^{2/} In granting rehearing, the Commission instructed the Director, Office of Hydropower Licensing, to request the state and federal agencies to file plans they believe meet the revised guidelines. Until the process is completed, the staff will consider all available plans pursuant to section 10(a)(2).

^{1/} Order No. 481, 52 FED. REG. 39,905 (October 26, 1987), III FERC STATS. & REGS. ¶ 30,773 (1987).

^{2/} Order No. 481-A, 43 FERC ¶ 61,120 (April 27, 1988).

The staff reviewed three plans that address various aspects of waterway management in relation to the proposed project. ^{3/} No conflicts were found.

Based upon a review of the agency and public comments filed in this proceeding, and on the staff's independent analysis, the River Falls Hydroelectric Project is best adapted to a comprehensive plan for the Kinnickinnic River.

Recommendations of Federal and State Fish and Wildlife Agencies

Section 10(j) of the Act requires the Commission to include license conditions, based on recommendations of federal and state fish and wildlife agencies, for the protection, mitigation, and enhancement of fish and wildlife. In the EA for the River Falls Project attached to and made part of this license, the staff addresses the concerns of the federal and state fish and wildlife agencies, and makes recommendations consistent with those of the agencies, except as indicated below.

The Department of the Interior, by letter dated April 5, 1988, recommends that the Commission require the licensee to survey two transmission lines that cross a wetland in the Powell Falls impoundment to determine if these lines are a hazard to water-fowl. Since these lines are not part of the project to be licensed, the Commission cannot require the licensee to conduct the survey to determine mitigative measures. Therefore, Interior's recommendation is outside the scope of Section 10(j). The staff discussed this with the U.S. Fish and Wildlife Service personnel and no further negotiations are necessary (personal communication, Cathy Carnes, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, Green Bay, Wisconsin, August 1, 1988).

Summary of Findings

An EA was issued for this project. Background information, analysis of impacts, support for related license articles, and the basis for a finding of no significant impact on the environment are contained in the EA attached to this order. Issuance of this license is not a major federal action significantly affecting the quality of the human environment.

^{3/} Wisconsin Water Quality, Report to Congress, 1986, Wisconsin Department of Natural Resources; Wisconsin Water Quality Program, St. Croix River Basin Areawide Water Quality Management Plan, October 1980, Wisconsin Department of Natural Resources; Wisconsin's 1986-91 Statewide Comprehensive Outdoor Recreation Plan, 1986, Wisconsin Department of Natural Resources.

The design of this project is consistent with the engineering standards governing dam safety. The project will be safe if operated and maintained in accordance with the requirements of this license. Analysis of related issues is provided in the Safety and Design Assessment attached to this order.

The Director, Office of Hydropower Licensing, concludes that the project would not conflict with any planned or authorized development, and would be best adapted to comprehensive development of the waterway for beneficial public uses.

The Director orders:

(A) This license is issued to River Falls Municipal Utility (licensee), for a period of 30 years, effective the first day of the month in which this order is issued, to operate and maintain the River Falls Project. This license is subject to the terms and conditions of the Act, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the Act.

(B) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, shown by exhibit G:

<u>Exhibit G-</u>	<u>FERC No.10489-</u>	<u>Showing</u>
1	8	Project Location & Impoundment Map

(2) Project works consisting of: (1) Upper facilities; (a) a 140-foot-long and 32-foot-high concrete dam; (b) a reservoir with a surface area of 15.5 acres and a storage capacity of 142.7 acre-feet at elevation 865.3 m.s.l.; (c) an 80-foot-long by 6-foot-diameter penstock; (d) a powerhouse containing one generating unit rated at 250 kW; (e) the 2,400-volt generator leads and the 50-foot-long, 2,400-volt transmission cable; and (f) appurtenant facilities. (2) Lower facilities; (a) a 110-foot-long and 16.5-foot-high concrete dam located approximately 0.5 mile downstream of the upper dam; (b) a reservoir with a surface area of 15.4 acres and a storage capacity of 37 acre-feet at elevation 820 feet m.s.l.; (c) a powerhouse containing one generating unit rated at 125 kW; (d) the 2,400-volt generator leads and the 2500-foot-long, 2,400-volt transmission line; and (e) appurtenant facilities.

(3) All of the structures, fixtures, equipment or facilities used to operate or maintain the project, all portable property that may be employed in connection with the project and located within or outside the project boundary, and all riparian

or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) The exhibit G described above and those sections of exhibits A and F recommended for approval in the attached Safety and Design Assessment are approved and made part of the license.

(D) The following sections of the Act are waived and excluded from the license for this minor project:

4(b), except the second sentence; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army; 6, insofar as it relates to public notice and to the acceptance and expression in the license of terms and conditions of the Act that are waived here; 10(c), insofar as it relates to depreciation reserves; 10(d); 10(f); 14, except insofar as the power of condemnation is reserved; 15 4/; 16; 19; 20; and 22.

(E) This license is subject to the articles set forth in Form L-12, (October 1975), entitled "Terms and Conditions of License for Constructed Minor Project Affecting the Interests of Interstate or Foreign Commerce", and the following additional articles:

Article 201. The licensee shall pay the United States the following annual charge, effective the first day of the month in which this license is issued:

For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 500 horsepower.

Article 202. The licensee, within 90 days of completion of the proposed Junction Falls Dam rehabilitation, shall file for approval by the Commission, revised exhibits A and F to describe and show the Junction Falls Dam as-rehabilitated.

Article 401. The licensee shall operate the River Falls Project in an instantaneous run-of-river mode to protect the fish and wildlife resources in the Kinnickinnic River. The licensee,

4/ At the expiration of this license, any license application filed, including the licensee's, will be treated as an original license application. The municipal preference provisions of section 7(a) of the Act will apply.

in operating the project in an instantaneous run-of-river mode, shall minimize fluctuations of each reservoir surface elevation, i.e., maintain the discharge from each powerhouse that approximates the instantaneous sum of inflow to each reservoir. The instantaneous run-of-river operation may be temporarily modified if required by operating emergencies beyond the control of the licensee and for short periods upon mutual agreement between the licensee and the Wisconsin Department of Natural Resources.

*rise
lower = 1'*

Article 402. The licensee, after consulting with the Wisconsin Department of Natural Resources (WDNR), shall install three streamflow gauges in the project reservoirs and in the Kinnickinnic River to monitor compliance with the instantaneous run-of-river mode of operation, as stated in article 401. One flow gauge shall be installed at each of the following locations: (1) above Junction Falls dam to be visible from the Falls Street Bridge; (2) above the Powell Falls dam to be visible from the Powell Falls powerhouse; and (3) in the tailwater downstream of the Powell Falls dam to be visible from the Powell Falls powerhouse. The gauges shall be installed within one year from the date of issuance of this license.

Article 403. The licensee, after consulting with the Wisconsin Department of Natural Resources and the U.S. Fish and Wildlife Service, and within 1 year from the issuance date of this license, shall provide: (1) a sign upstream of the dams to warn upstream boaters of the presence of the dams; (2) a sign identifying the Junction Falls take-out point; and (3) a portage route around the dams for boaters. Within 3 months of completing these facilities, the licensee shall file as-built drawings with the Commission showing the type and location of these facilities. In addition, the licensee shall operate and maintain, or arrange for the operation and maintenance of the recreational facilities during the term of the license.

Article 404. (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational,

or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, cancelling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and water for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one

million gallons per day from a project reservoir. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Hydropower Licensing, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved exhibit R or approved report on recreational resources of an exhibit E; or, if the project does not have an approved exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to insure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

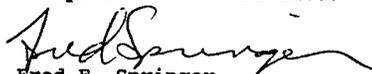
(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(F) The licensee shall serve copies of any Commission filing required by this order on any entity specified in this order to be consulted on matters related to that filing. Proof of service on these entities must accompany the filing with the Commission.

(G) This order is issued under authority delegated to the Director and is final unless appealed to the Commission by any party within 30 days from the issuance date of this order. Filing an appeal does not stay the effective date of this order or any date specified in this order. The licensee's failure to appeal this order shall constitute acceptance of the license.


 Fred E. Springer
 Director, Office of
 Hydropower Licensing

ENVIRONMENTAL ASSESSMENT 1/
 FEDERAL ENERGY REGULATORY COMMISSION
 OFFICE OF HYDROPOWER LICENSING,
 DIVISION OF PROJECT REVIEW

August 30, 1988

River Falls Municipal Hydroelectric Project

FERC Project No. 10489-000

A. APPLICATION

1. Application type: minor license, existing dam.
2. Date filed with the Commission: October 15, 1987.
3. Applicant: River Falls Municipal Utility.
4. Water body: Kinnickinnic River River basin: St. Croix
5. Nearest city: River Falls, Wisconsin
6. Location: The Kinnickinnic River in Pierce County, Wisconsin

B. PURPOSE AND NEED FOR ACTION

1. Purpose:

The purpose of the River Falls Municipal Hydroelectric project is to assist in meeting the customer power requirements of the municipal utility of the city of River Falls, Wisconsin.

2. Need for power:

The power from this existing project will continue to be useful in meeting a small part of the current and projected future need for power for the Mid-American Interpool Network Reliability Council region. In 1987, the project supplied 2.26 gigawatthours of hydroelectric energy, or about 3 percent of the applicant's total energy requirement, thereby reducing the amount of fossil-fueled electric power generation that would be purchased from investor-owned utilities in the area. Hence, the project contributes to the conservation of nonrenewable fossil fuels and to the reduction in emission of noxious byproducts caused by the combustion of fossil fuels. On this basis, the staff concludes that a need for the project power exists.

1/ Figures and attachments referenced in the text are omitted from this document due to reproduction requirements.

C. EXISTING PROJECT AND ALTERNATIVES

1. Project Description:

The existing, unlicensed River Falls project consists of the Junction Falls and the Powell Falls developments (figure 1). The Junction Falls development consists of: (a) an existing 140-foot-long and 32-foot-high concrete dam; (b) an existing reservoir with a surface area of 15.5 acres and a storage capacity of 142.7 acre-feet at elevation 865.3 mean sea level (msl); (c) an existing 80-foot-long, 6-foot diameter penstock; (d) an existing powerhouse containing one generating unit rated at 250 kilowatts (kW); (e) the existing 50-foot-long transmission line; and (f) related facilities (figure 2). The Powell Falls development consists of: (a) an existing 110-foot-long and 16.5-foot-high concrete dam located approximately 0.5 mile downstream of the upper dam; (b) an existing reservoir with a surface area of 15.4 acres and a storage capacity of 37 acre-feet at elevation 820 feet msl; (c) an existing powerhouse containing one generating unit rated at 125 kW; (d) the existing 2500-foot-long transmission line; and (e) related facilities (figure 3). The estimated average annual energy output for the River Falls project is 2,000,000 kWh.

The Junction Falls dam was originally constructed in 1896 and was renovated in 1948 to generate electricity. The Powell Falls dam was originally built in 1903 and was renovated in 1948 and again in 1966. Each facility has been operating in a run-of-river mode since 1975. The project was previously operated in a peaking mode. The mode of operation was modified pursuant to a request from the Wisconsin Department of Natural Resources.

2. Applicant's proposed mitigative measures.

a. Construction. No new construction is anticipated therefore, no mitigative measures are proposed.

b. Operation. To reduce the impacts of operating the project, the applicant proposes to maintain the present run-of-river mode of operation and to enhance the recreational opportunities in the project area by providing canoe portage around the dams, and by installing signs at the Junction Falls take-out point. No other changes to the existing facilities are proposed.

3. Federal lands affected. There are no federal lands either in or adjacent to the project area and no such lands would be affected.

4. Alternatives to Licensing the Project

- a. No reasonable action alternative has been found.
 b. Action alternative: Denial of the License.

Denying the license would result in removal of the project facilities and would preclude the city of River Falls from generating power at the site. To replace the power lost by removing the project facilities the city would need to consider developing other sources of energy, reducing the energy demand by employing conservation measures, or purchasing additional power from another utility. The city of River Falls has a fossil-fueled generating plant immediately adjacent to the Junction Falls development. If the license is denied and project facilities are removed, expanding the generating capacity of this plant may be an alternative for replacing the power lost by removing the River Falls Hydroelectric project.

D. CONSULTATION AND COMPLIANCE

1. Fish and wildlife agency consultation (Fish & Wildlife Coordination Act).

- a. U.S. Fish & Wildlife Service (FWS): Yes. No.
 b. Wisconsin Department of Natural Resources: Yes. No.
 c. National Marine Fisheries Service (NMFS): Yes. No.

2. Section 7 consultation (Endangered Species Act).

- a. Listed species: None. Present.
 b. Consultation: Not required.
 Required.

The project is within the general range of the peregrine falcon (endangered), the bald eagle (threatened), and the prairie bush-clover (threatened). The FWS states that because no new construction of facilities or access roads is proposed, the project would not affect the peregrine falcon, bald eagle, or prairie bush-clover (letter from Janet M. Smith, Field Supervisor, U.S. Fish and Wildlife Service, Green Bay, Wisconsin, March 22, 1988).

3. Section 401 certification (Clean Water Act).

Section 401 Water Quality Certification was granted by the Wisconsin Department of Natural Resources (WDNR) on September 9, 1986.

4. Cultural resource consultation (Historic Preservation Act).

- a. State Historic Preservation Officer (SHPO): Yes. No.
 b. National Park Service (NPS): Yes. No.
 c. National Register status: None.
 Eligible or listed.
 d. Council: Not required. Completed: _____.
 e. Further consultation: Not required. Required.

resources of the St. Croix River and its designation as a Wild and Scenic River.

3. Descriptions of the resources in the project area. (Source: River Falls Municipal Utility, 1987, application, exhibit E, unless otherwise indicated).

a. Geology and soils: The project area is characterized by a glaciated surface consisting of a thin layer of silty loess over glacial till. Faulted Precambrian granites, diorites, and gneisses comprise the underlying bedrock. Cambrian sandstones, dolomite, and shale superpose the Precambrian igneous rocks. The soils in the area consist of prairie soils, including black silt loams and silty soils on plains of outwash sand and gravel. Upstream of the city of River Falls, the Kinnickinnic River flows through broad outwash plains bordered by steeply sloped valley walls. The Junction Falls dam is located in a steep narrow rock gorge on the North Branch of the Kinnickinnic River.

b. Streamflow:

low flow: 47 cfs. flow parameter: Flow exceeded 90% of the time.

high flow: 96 cfs. flow parameter: Flow exceeded 10% of the time.

median flow: 58 cfs. Flow exceeded 50% of the time.

These streamflow parameters were determined from the applicant's flow duration curve. The curve was derived from U.S. Geological Survey data taken from 1917 to 1921.

c. Water quality: The quality of the surface and groundwater in the Kinnickinnic River Basin is generally very good. The pollution that does exist in the river comes predominantly from agricultural runoff from the surrounding farmland. The river's sediment load is a concern because of the relatively high annual erosion rate of 5.0 tons of soil per year (Wisconsin Department of Natural Resources, 1980). The eroding top soil washed into the river contributes to seasonally high turbidity levels and decreased water quality. In addition, the city of River Falls' municipal wastewater treatment plant discharges into the Kinnickinnic River in the Powell Falls impoundment (figure 1). However, because of the tertiary water treatment at the plant, no water quality problems have occurred from the plant.

d. Fishery Resources: The Kinnickinnic River in the project area supports an excellent fishery for coolwater and coldwater fish. The fish species present in the project area are typical of those inhabiting the St. Croix River Basin. The species include walleye, sauger, yellow perch, smallmouth bass, channel catfish, bullheads, crappie, bluegill and brown, brook, and rainbow trout.

The Kinnickinnic River upstream and downstream of River Falls provides ideal conditions for the existence and reproduction of trout and other coldwater fish and is classified by the WDNR as Class 1 trout water. Class 1 means that the stream is a high quality trout stream and the trout populations are sustained entirely by natural reproduction. The Class 1 designation does not include the impounded portions of the river in the project area. The south fork of the Kinnickinnic River, which joins the mainstem Kinnickinnic River in the Powell Falls impoundment, is designated as Class II brook and brown trout water. This designation means that some stocking is required to maintain the trout population.

e, f. Vegetation and Wildlife:

Several sections of land along the lower Kinnickinnic River, near it's confluence with the St. Croix River, have been identified by the FWS as potential candidates for federal acquisition because of the area's unique mixture of wildlife habitat (e.g. bluff, prairie, floodplain, forest) and the high diversity of wildlife and plant species associated with the area.

Mammals inhabiting the lower Kinnickinnic Basin include white-tailed deer, raccoon, beaver, muskrat, gray squirrel, striped ground squirrel, red fox, striped skunk, and mink. Avian species include marsh hawk, broad-winged hawk, barn owl, ruffed grouse, ring-necked pheasant, great blue heron, green heron, common loon, Canada goose, wood duck, mallard, blue-winged teal, black tern, belted kingfisher, barn swallow, American gold finch, cerulean warbler, common yellow throat, eastern kingbird, and mourning dove. Canada geese and several species of ducks nest on the wetlands within the project impoundments and on several islands in the river downstream of the project.

The following is a partial list of the dominant plant species found in the project area.

<u>Cover type</u>	<u>Dominant species</u>
grassland	big bluestem, little bluestem, side-oats grama
upland mixed deciduous forest	sugar maple, red oak, basswood, paper birch
forested wetland (adjacent to the river)	willow, cottonwood
emergent wetland	burreed, cord grass, bulrush, reed canary grass, smartweed, cattail

g. **Cultural:** Properties listed or eligible for listing on the National Register of Historic Places have not been recorded in the project area.

h. **Recreation:** Recreational use in the area includes fishing, canoeing, hiking, hunting, and picnicking. The Kinnickinnic River has an excellent trout fishery and fishing pressure is heavy. The river below Powell Falls dam is frequently used by canoeists; however, natural river obstacles limit canoe use above Junction Falls impoundment. Recreational facilities in the project area include the Lake George Trails, which are located in the project vicinity, and Glen Park, which is adjacent to the river between Junction Falls and Powell Falls dams. Glen Park offers picnicking, softball, and other day-use facilities. The 1,034-acre Kinnickinnic State Park, located 25 miles below Powell Falls dam at the confluence of the Kinnickinnic and St. Croix Rivers, provides extensive water-based recreation opportunities including fishing, swimming, and boating, as well as areas for hiking, riding, cross-country skiing, and bird-watching.

i. **Land use:** The project is located in the city of River Falls. Land in the city is used for residential, commercial, and recreational purposes. In the immediate project vicinity, development is limited. Land is used for recreational and agricultural purposes, as well as for supporting a sewage treatment plant and the hydroelectric project.

G. ENVIRONMENTAL ISSUES AND PROPOSED RESOLUTIONS

There are three issues addressed below.

1. **Mode of Operation and Stream Gauging:** The current project operator proposes, and the FWS and the WDNR recommend, that the project be operated in a run-of-river mode.

The existing unlicensed project, including both the Junction Falls and Powell Falls developments, is currently operated in a run-of-river mode such that outflow from each development equals the inflow to each impoundment. By continuing to provide this present mode of operation, the project would continue to maintain the existing flow regime of the river and would minimize fluctuations in the elevation of the reservoirs and discharges downstream of the project. Minimizing the streamflow fluctuations would reduce instances when the streambed would be dewatered and would protect fish habitat and the fish population in the Kinnickinnic River. Therefore, the licensee should continue to operate the project in a run-of-river mode to protect aquatic resources in the river upstream and downstream from the project.

The WDNR, by letter dated February 23, 1988, and by their petition to intervene dated March 28, 1988, recommends that the applicant install three staff gauges to monitor compliance with the run-of-river mode of operation. The WDNR recommends the staff gauges be placed such that WDNR personnel are able to visually verify compliance with the mode of operation. The WDNR recommends that one flow gauge be installed above Junction Falls dam and that it be visible from the Falls Street Bridge; one flow gauge be installed above the Powell Falls dam and that it be visible from the Powell Falls powerhouse; and one flow gauge be installed in the tailwater below Powell Falls dam and that it be visible from the Powell Falls powerhouse.

Installing staff gauges would provide for monitoring of the inflow and outflow from the impoundments, and installing the gauges at the specific sites recommended by the WDNR would provide easy access to the gauges. These measures would facilitate compliance of the recommended mode of project operation. Therefore, the licensee should install the three staff gauges at the specific sites as recommended by the WDNR.

2. Recreational Resources:

The WDNR, by letter dated February 23, 1988, states that the project may adversely affect recreational opportunities currently available on the Kinnickinnic River including recreational navigation, fishing, hunting, and swimming. The WDNR also recommends that signs be installed at the take-out point above Junction Falls dam. These signs would indicate the presence of the dam for safety purposes and would identify the take-out point for canoes. The Interior by letter dated April 5, 1988, recommends the applicant allow public access to project lands and waters, except in those areas of the dams that are hazardous. The WDNR and Interior recommend the applicant provide and maintain canoe portage facilities around each dam.

The applicant agrees with Interior's and WDNR's recommendation to provide and to maintain canoe portage around the dams and to install the signs at the Junction Falls take-out point.

The existing recreational developments in the project vicinity provides for public recreation in the area. Canoeists frequently use the river below Powell Falls dam and there is occasional use of the pool above Junction Falls dam. Canoes cannot negotiate the dams, therefore, the dams disrupt the continuous canoe run between the upstream and downstream reaches of the river. In addition, Powell Falls dam is a safety hazard to canoeists approaching from the upstream side. Canoe portage facilities and warning signs would provide a safe and adequate means for canoeists to utilize the upstream and downstream reaches of the river in a single continuous canoeing experience.

Therefore, the licensee, after consulting with the WDNR and the FWS, should provide and maintain canoe portage around the dams and install signs at the Junction Falls take-out point.

Public access to rivers is decreasing rapidly as residential and commercial development spreads, especially in urban areas. This decline in recreational river access supply comes at a time when participation in river-oriented activities, including fishing and canoeing, is increasing (President's Commission on Americans Outdoors, 1987). The impacts from the loss of public river access is even more severely felt near population centers. Since people are choosing to recreate closer to home, the demand for recreational access is much greater near populated areas. By providing continued free, public access to project lands and waters, the opportunity for participation in river-oriented activities within a short distance of the approximately 10,000 residents of River Falls, Wisconsin and nearby towns is assured. Therefore, the licensee should allow free public access to project lands. An article included in any license issued would require the licensee to allow free public access, to a reasonable extent, to project lands and waters for recreational purposes within safety limitations.

The recommended run-of-river mode of operation, the maintenance of existing flows, the maintenance of public access to project lands, and the addition of the canoe portage facility would preserve and enhance the existing recreational opportunities on the Kinnickinnic River in the project area.

3. Waterfowl collisions with the transmission lines: Two existing distribution transmission lines cross an emergent backwater wetland north of the Powell Falls impoundment. The wetland contains numerous wood duck nest boxes and is used extensively by waterfowl. The FWS states that there is some potential for waterfowl collisions with the transmission lines although the transmission lines are relatively high and waterfowl would most likely fly along the river and under the lines to land in the wetland. The FWS recommends that the applicant monitor the transmission lines to determine the extent of bird collisions and to determine if mitigative measures, such as marking the lines, are necessary to reduce the number of bird collisions (letter from Janet M. Smith, Field Supervisor, U.S. Fish and Wildlife Service, Green Bay, Wisconsin, March 22, 1988).

The applicant states that they have been conducting periodic bird strike inspections and will consult with the FWS and the WDNR to determine if protective measures are needed. The applicant adds that these lines have been in place since 1900 and no bird strike problems are known.

One of the two transmission lines in the vicinity of the project is owned by the city of River Falls and the other is

owned by Northern States Power Company. Although both transmission lines are shown in the application, neither of these lines are in fact, part of the project. Both transmission lines originate from the electrical generating station located immediately downstream of the Junction Falls dam (figure 1) and distribute power throughout the city of River Falls. Since the transmission lines originate from the city's power station, and not from the hydropower project, they are not primary transmission lines and therefore cannot be considered as part of the project [Section 3(11) of the Act]. Although the applicant agrees to voluntarily conduct the studies of the transmission lines, the Commission does not have the authority to require the licensee to conduct studies or to impose mitigative measures to reduce bird strikes.

H. ENVIRONMENTAL IMPACTS

1. An assessment of impacts expected from the applicant's proposed project (P), with the proposed mitigation and any terms and conditions set by the fish and wildlife agencies; the proposed project with any additional mitigation recommended by the staff (Ps); and any action alternative considered (A). Assessment symbols indicate the following impact levels:

O = None; 1 = Minor; 2 = Moderate; 3 = Major;
A = Adverse; B = Beneficial; L = Long-term; S = Short-term.

Resource	Impact			Resource	Impact		
	P	Ps	A		P	Ps	A
a. Geology-Soils	0			f. Wildlife	0		
b. Streamflow	0			g. Cultural: Archeological	0		
c. Water quality: Temperature	0			Historical	0		
Dissolved oxygen	0			h. Visual quality	0		
Turbidity and sedimentation	0			i. Recreation	1BL		
d. Fisheries: Anadromous	0			j. Land use	0		
Resident	0			k. Socioeconomics	0		
e. Vegetation	0						

Remarks:

i. Installing portage facilities and take-out signs would enhance the recreational opportunities in the project area.

2. Impacts of the No-Action Alternative.

Under the No-Action Alternative, the project would continue to operate without a license and without any needed requirements for operating the project.

3. Recommended alternative (including proposed, required, and recommended mitigative measures):

Proposed project. Alternative. No action.

4. Reason for selecting the preferred alternative.

The proposed project would generate electricity using a renewable resource without significantly affecting the existing environmental conditions of the area.

I. UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS OF THE RECOMMENDED ALTERNATIVE

No unavoidable adverse environmental impacts are expected to occur.

J. CONCLUSION

Finding of No Significant Impact. Approval of the recommended alternative [H(3)] would not constitute a major federal action significantly affecting the quality of the human environment; therefore, an environmental impact statement (EIS) will not be prepared.

Intent to Prepare an EIS. Approval of the recommended alternative [H(3)] would constitute a major federal action significantly affecting the quality of the human environment; therefore, an EIS will be prepared.

K. LITERATURE CITED

President's Commission on Americans Outdoors. 1987. Americans Outdoors, the Legacy, the Challenge. Island Press, Washington, D.C.

River Falls Municipal Utility. 1987. Application for license for a minor hydroelectric power project, River Falls Municipal Hydroelectric Facilities (FERC Project No.10489), Wisconsin. October 15, 1987.

Wisconsin Department of Natural Resources. 1980. The St. Croix River Basin Areawide Water Quality Management Plan. Madison, Wisconsin.

L. LIST OF PREPARERS

Name	Position title
Mark Bagdovitz	Fishery Biologist (Coordinator)
John Staples	Ecologist
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Mary C. Nowak	Writer - Editor

DAM SAFETY

On June 23, 1988, the Commission's Chicago Regional Director classified the existing Junction Falls dam and the existing Powell Falls dam as having a low hazard potential. The classification was based on a field inspection and other information available to the Regional Office staff. Powell Falls dam is located about one-half mile downstream of the Junction Falls dam. The dams were originally constructed in the mid-1800's.

The Junction Falls dam was reconstructed in 1920. The dam is a 32-foot-high concrete gravity structure with an uncontrolled ogee shaped spillway spanning 115 feet of the dam's 140-foot-length. The entire dam is founded on bedrock. The freeboard between the normal pool and the top of the dam is 7 feet. The gross storage capacity of the reservoir at normal pool elevation is 142.7 acre-feet. The field inspection showed that a sewage treatment plant along the right bank downstream would not be affected by the dam failure because of its higher elevation. A small park along the left bank is rarely used by the public, is not well maintained, and has been flooded occasionally. There is no overnight camping at the park.

The Powell Falls dam was replaced in 1966. It is a 16.5-foot-high and 110-foot-long concrete gravity structure with its entire length acting as a spillway. It impounds 37 acre-feet. The field observation revealed that because of steep slopes and limited access, there is lack of development downstream.

The probable maximum flood for the Junction Falls dam was estimated at 86,400 cubic feet per second (cfs) and for the Powell Falls dam at 91,800 cfs.

The dams are classified low hazard because any failure of the dams would not significantly increase the hazard downstream and thereby would not cause loss of life or result in extensive property damage.

The rehabilitation proposed at the project would involve rectifying the deteriorated concrete surface of the spillway and improving the stability of the Junction Falls dam. The spillway crest would be reshaped for better flow conditions. The applicant intends to improve the stability of the dam to withstand an inflow design flood, less than the probable maximum flood, in accordance with our standards of factors of safety for all credible loading

conditions. This would be accomplished by post-tensioning the dam into the foundation bedrock.

The rock anchors would be installed by drilling holes through the crest of the spillway into the underlying sandy dolomitic foundation. Rock anchors would be installed in these holes, grouted and then post-tensioned. Each rock anchor would be proof-tested. Solid threaded-bar anchors with the required design force at 60 percent of the ultimate strength would be spaced appropriately for each monolith. The required bond length, in conjunction with a free stressing length, would constitute the total length of each anchor.

The Powell Falls dam is in sound condition and, except for minor repairs, would not be rehabilitated by the applicant.

PROJECT DESIGN

The constructed project consists of two developments: the Junctions Falls Development and the Powell Falls Development. The latter development is located about one-half mile downstream.

The Junction Falls Development consists of a dam with headworks at the right end. One of the slide gates at the headworks controls flow via a 6-foot-diameter concrete-encased steel penstock to a powerplant located 200 feet downstream. The powerplant contains a single vertical Francis turbine-generator unit rated at 250 kilowatts (kW).

The Powell Falls Development consists of a dam with an integral powerhouse at the left end. The intake is controlled by gates. The powerplant contains a single vertical Francis turbine-generator unit rated at 125 kW.

WATER RESOURCES PLANNING

Both the developments operate run-of-river. The single-unit powerplant at Junction Falls operates at a design hydraulic capacity of 80 cfs and an average head of 44 feet. The single-unit powerplant at Powell Falls operates at a design hydraulic capacity of 82 cfs and an average head of 20 feet. The combined average annual generation of the powerplants is 2,000,000 kilowatthours (kWh).

The drainage area at the Junction Falls site is 100 square miles and at the downstream Powell Falls site it is 120 square miles. The drainage area for the Powell Falls site includes the additional area of the South Fork of the Kinnickinnic River. Both sites are located on the Kinnickinnic River. The flow data is based upon the 1916-1921 record from a USGS gaging station located about 5 miles downstream of the project site. This is the only flow data available in the vicinity of the project site and

was used to develop the flow-duration curve. A streamflow of 80 cfs, which is the hydraulic capacity of the powerplant at Junction Falls, is equalled or exceeded 7 percent of the time on the flow-duration curve. For Powell Falls, the streamflow of 82 cfs represents a 12 percent exceedence on the flow-duration curve. No minimum flows are required. The project site is adequately developed.

Based on a review of the agency and public comments filed in this proceeding and on the staff's independent analysis, the River Falls Project is best adapted to a comprehensive plan for the river.

CONSERVATION PLANNING

The applicant is engaged in a number of conservation and energy consumption efficiency programs.

The following programs include:

- a) replacing all street lighting mercury vapor fixtures with high pressure sodium units, resulting in about 40 percent energy savings on street lighting.
- b) working with the Wisconsin Public Service Commission to establish time-of-day rates to encourage use of cheaper energy during off-peak hours.
- c) supporting their wholesale power supplier, Wisconsin Public Power, Inc., in working with the Wisconsin Public Service Commission in development of a customer rebate program for energy efficient appliances, which is expected to go into operation in 1989.
- d) disseminating information to customers on energy conservation and assisting commercial customers for energy conservation loans and grants.
- e) complying with various energy efficiency mandates promulgated from various state of Wisconsin agencies.

On the basis of these activities, the staff concludes that the applicant is making a good-faith effort to improve and maintain a reasonably high level of energy consumption efficiency.

EXHIBITS

The following portions of exhibit A and the following exhibit F drawings conform to the Commission's rules and regulations and they are included in the license.

EXHIBIT A: Table A-1 entitled "Technical Data."

<u>Exhibit F Drawing</u>	<u>FERC No. 10489</u>	<u>Description</u>
F-1	1	Junction Falls dam-existing conditions-site plans & downstream elevation
F-2	2	Junction Falls dam-existing conditions-dam sections & elevation
F-3	3	Junction Falls dam-existing conditions-powerhouse plan & sections
F-4	4	Junction Falls dam-proposed dam rehabilitation-plan, elevation & section
F-5	5	Junction Falls dam-proposed dam rehabilitation-sections
F-6	6	Powell Falls dam-plan, elevation & sections
F-7	7	Powell Falls dam-powerhouse plan & sections

FEDERAL POWER COMMISSION

TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED
MINOR PROJECT AFFECTING THE INTERESTS OF
INTERSTATE OR FOREIGN COMMERCE

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such

properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 7. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 8. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits as the Licensee as the Commission may order.

Article 9. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 10. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and

the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 11. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 12. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 13. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of

such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 14. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 15. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 16. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining

within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 17. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 18. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

River Falls Municipal Utilities

Project No. 10489-003
Wisconsin

ORDER AMENDING LICENSE

(Issued August 16, 1990)

On July 2, 1990, River Falls Municipal Utilities (licensee) filed a request for deletion of the canoe portage requirement from article 403 of the project license.

The request for deletion of the canoe portage is supported by a letter from the Wisconsin Department of Natural Resources (WDNR) dated June 19, 1990. The WDNR cites no traditional canoeing use of the Kinnickinnic River and the WDNR's wish to preserve a class I Brown Trout fishery as its reasons for now opposing installation of the canoe portage. The U.S. Fish and Wildlife Service expressed no opposition to removing the portage requirement.

The installation of the canoe portage will likely result in user conflicts between fishermen and boaters. The predominate recreational use of the area is fishing; introducing a conflicting use, boating, will diminish the current recreational use of the area. The project license should be amended to delete the requirement for a canoe portage. If, however, based on additional information provided to the Commission, or changes in recreational use of the project, the need for such a facility becomes apparent, the Commission should reserve the right to require installation of the facilities.

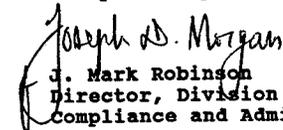
The Director orders:

(A) The request for amendment of license article 403, filed July 2, 1990, is approved.

(B) The Commission reserves the right to require installation of the facilities at a later date should a need for the facilities become apparent.

(C) This order is issued under authority delegated to the Director pursuant to section 375.314 of the Commission's regulations. Section 385.1902 of the Commission's regulations

provides 30 days from the date of this order for an appeal to the Commission of this action. Filing an appeal does not stay the effective date of this order or any date specified herein.


J. Mark Robinson
Director, Division of Project
Compliance and Administration

UNITED STATES OF AMERICA 81 ferc ¶ 62, 087
FEDERAL ENERGY REGULATORY COMMISSION

River Falls Municipal Utilities) Project No. 10489-008

ORDER MODIFYING and AND APPROVING PROJECT OPERATION PROTOCOL

OctoberOctober 27, 1997

On September 2, 1997, River Falls Municipal Utilities (licensee) filed an operation protocol plan to minimize downstream water level fluctuations at the River Falls Project located on the Kinnickinnic River in Pierce County, Wisconsin. The licensee was required to develop the plan, after consultation with the Wisconsin Department of Natural Resources (WDNR), to be implemented each time the turbine is removed from service and put back on-line for trashrack cleaning operations and other maintenance activities.

BACKGROUND

In 1995 the Commission received a report indicating that the licensee may not have operated the project in compliance with the run-of-river requirement of its license,¹ specifically, during trashrack cleaning operations. In September 1995, the Commission's environmental contractor, with representatives of the WDNR, performed a technical inspection of the project. After review of the project's operating protocol, the Commission required the licensee to submit a plan ensuring that the project would be operated in a run-of-river mode at all times. In May 1996, the licensee developed several alternatives to reduce downstream flow fluctuations caused by cleaning the trashracks. The licensee consulted with the WDNR and received comments agreeing with structural changes, but the WDNR recommended an alternative procedure for installing the new facilities.

Upon reevaluation of the alternative with the proposed modifications, the licensee stated in a February 1997 filing that modifying the waste gate and installing a waste gate trashrack

1 / Order Issuing License, 44 FERC ¶ 62,298 (1988). Article 401 requires the licensee to operate the project in an instantaneous run-of-river mode for the protection of fish and wildlife resources.

(the preferred alternative) would have a direct impact on sediment loading. The licensee requested additional time to review other alternatives.

In May 1997 the Commission proposed an on-site meeting between the licensee, the WDNR and other concerned parties to review project operations and discuss operational changes or modifications that would ensure compliance with article 401. The meeting was held on June 30, 1997 and was attended by representatives from the licensee, WDNR, Kinnickinnic River Land Trust and Trout Unlimited.

THE LICENSEE'S PROPOSED PLAN

In order to minimize downstream flow fluctuations, the licensee proposed to implement ramping procedures. The licensee stated that the gate would be ramped (in either direction) at 5 KW (3 cfs) increments. After cleaning the trashracks, the licensee proposed to place the unit on line at minimum output under all flow conditions and ramp up in 5 KW increments. Based on inflow, the time allotted for upramping or downramping is estimated to be 1-4 hours during high flow conditions and 10-24 hours during low flow conditions.

The licensee also proposed to reduce the number of times the trash racks are cleaned and to clean them only when the debris causes a reduction in generator output. The licensee proposed a weekly schedule and added that different flow conditions and seasons will effect the number of times the trashracks are cleaned. The licensee further proposed to operate the project with the reservoir level above the crest of the dam during the fall months when trashrack cleaning is needed more frequently, thereby passing floating leaves downstream. Additionally, the licensee proposed to shut down the unit when the leaf liter is extremely heavy and not to resume operation until it subsides.

Lastly, the licensee proposed to purchase continuous water level gaging and communications equipment to improve monitoring and recording of project operations. Upon receipt of the equipment, the licensee proposed to install it by the end of September 1997.

RESOURCE AGENCY COMMENTS

At the June 30 meeting, the licensee agreed to consult with the WDNR and develop a ramping plan. The licensee also agreed to

Project No. 10489-008

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a testing period and to make the data available for review. In July 1997, the licensee submitted a draft operating plan to the WDNR. The plan also included installation of gaging equipment. On August 8 the licensee and WDNR met to discuss the operating protocol and gaging plan. Based on discussions at the August 8 meeting, the licensee revised the draft plan. By letter dated August 15, 1997, the WDNR stated that they had no objections to the revised operating plan including the trash rack cleaning protocol and the increased level of the reservoir to pass leaves downstream, provided the reservoir level stays within the operating range.

The WDNR recommended that the operating protocol be implemented for a one-year trial period through October 1, 1998. The WDNR suggested a monitoring frequency and schedule for submitting specific data. The WDNR also recommended meeting with the licensee quarterly to evaluate the performance of the operating protocol and any changes needed.

The WDNR stated that the temporary, U.S. Geological Survey (USGS) streamflow gaging station, located below the project, is due to be removed around November 1, 1997. The WDNR added, there would be approximately 40 days of overlapping gaging data (between the licensee's and the USGS's provided the licensee installed the equipment on the schedule proposed) for comparison and calibration. The WDNR stated that if the gaging data is inconclusive (in terms of verifying compliance) alternative gaging strategies may be needed.

Lastly, the WDNR recommended that, following the one-year trial, the licensee should draft a report describing the results of the testing period. The WDNR suggested that they and other interested parties be provided the opportunity to review and comment on it, and file a final report with the Commission.

DISCUSSION

At the June 30 meeting, the parties reviewed the specific concerns of each group and discussed various alternatives for ensuring compliance with the license requirements. An agreement, in principle, was reached concerning modifications in project operations. The licensee's proposed operating plan is in fulfillment of that agreement.

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The WDNR's recommendation for a trial period to assess the effectiveness of the new operating protocol and equipment appears reasonable and should be beneficial to improving project operations. If any of the quarterly meetings result in a substantial change to the approved operating protocol, the licensee should file a report, along with WDNR comments, concerning the proposed modification(s). Otherwise, a final report, filed with the Commission by December 31, 1998, with comment letters and any recommendations regarding the project's performance over the test period, would be sufficient to review the results of the new operating protocol.

The licensee's proposal incorporated the WDNR's comments and recommendations and should ensure compliance with article 401. The licensee's proposed operating protocol and installation of the monitoring equipment, as modified above, should minimize downstream flow fluctuations and should be approved.

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The Director orders:

(A) River Falls Municipal Utilities' (licensee) operating protocol, filed on September 2, 1997, for the River Falls Project located on the Kinnickinnic River in Pierce County, Wisconsin, as modified in paragraphs (B) and (C), should be approved.

(B) The licensee shall file with the Commission, any recommendations for modifying the operating protocol based on review of the data and quarterly meetings between the licensee and the Wisconsin Department of Natural Resources.

(C) If there are no significant changes in the operating protocol during the one-year trial period, then the licensee shall file, with the Commission by December 31, 1998, a final report containing any comment letters and recommendations regarding the project's performance during the trial period.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Kevin P. Madden
Acting Director
Office of Hydropower Licensing

OHL/DLC LoVullo, TJ:jej October 22, 1997 K01

UNITED STATES OF AMERICA⁸⁷ ferc ¶ 62,108
 FEDERAL ENERGY REGULATORY COMMISSION

River Falls Municipal Utilities

Project No. 10489-011
 Wisconsin

ORDER AMENDING PROJECT OPERATION PLAN
 (Issued April 27, 1999)

On January 8 and supplemented on March 10, 1999, River Falls Municipal Utilities (licensee) filed a request to amend the Order Modifying and Approving Operation Protocol for the River Falls Project.¹¹ The project is located on the Kinnickinnic River in Pierce County, Wisconsin.

BACKGROUND

In order to ensure compliance with the run-of-river requirement in Aarticle 401 of its license,²²²² the licensee was required to develop, in consultation with the Wisconsin Department of Natural Resources (WDNR), an operating protocol that would minimize downstream water level fluctuations at the River Falls Project. The licensee's plan included ramping procedures to be implemented each time the project's turbines are removed from service and put back on-line during trashrack cleaning operations and other maintenance activities. The licensee's plan was approved in the above cited Order.

1 / 81 FERC ¶ 62,087 (1997).

1 / 81 FERC ¶ 62,087 (1997).

2 / Order Issuing License, 44 FERC ¶ 62,298 (1988).

2 / Order Issuing License, 44 FERC ¶ 62,298 (1988).

Article 401 requires the licensee to operate the project in an instantaneous run-of-river mode for the protection of fish and wildlife resources.

2 / Order Issuing License, 44 FERC ¶ 62,298 (1988).

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2 / Order Issuing License, 44 FERC ¶ 62,298 (1988).

Article 401 requires the licensee to operate the project in an instantaneous run-of-river mode for the protection of fish and wildlife resources.

The approved plan required that the operating protocol be implemented for a one-year trial period through October 1, 1998. The plan also required the licensee to meet with the WDNR quarterly to evaluate the performance of the operating protocol and, following the one-year testing period, draft a report describing the results of the tests and presenting any recommendations.

PROPOSED MODIFICATIONS

The licensee stated that the objective of the operation plan was to ensure that the units operate with minimal effect on downstream water levels. To achieve that, the licensee stated a tailwater level indicator was installed that provided data for the operators to monitor in order to observe any changes in downstream river elevations resulting from operational changes at the project. The licensee stated that operational data on trash rack cleaning activities was provided to the WDNR and meetings were held to evaluate the data. The licensee stated that it was determined that gate settings should be maintained for a minimum of 15 minutes before reducing, or increasing, generation in order to minimize downstream water level fluctuations.

The licensee revised the approved operating protocol to include the 15 minute component into the ramping procedures and provided a draft copy to the WDNR for its review and comment. The licensee also provided copies to representatives from Trout Unlimited and Kinnickinnic River Land Trust.

RESOURCE AGENCY COMMENTS

By letter dated December 11, 1998, the WDNR indicated that it reviewed the licensee's proposed modifications. The WDNR requested clarification concerning two points in the licensee's revised plan. The WDNR stated that after ramping down, the unit is turned off at a five kilowatt output. The WDNR wanted to know, however, at what output is the unit brought back on line. Secondly, the WDNR asked, once on line, would the project ramp up at five kilowatt increments.

By letter dated December 30, 1998, the licensee indicated that the operators do have the ability to set the gate and achieve a five kilowatt output when coming on line initially. Previously, the licensee stated, a 4-7 kilowatt range was reasonable. The licensee's revised plan also stated that once on line, ramping up, or increasing generation, would occur at five

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kilowatt increments.

In a letter dated March 2, 1999, the licensee indicated that no comments were received from Trout Unlimited and Kinnickinnic River Land Trust regarding the proposed modifications to the approved operating plan.

DISCUSSION

The approved operating protocol did not contain a specific time element for maintaining a gate setting before another adjustment in generation was made. It stated that generation would be reduced (or increased depending on whether the operator was ramping down the units or ramping up) until the water level stabilized at the desired level. The approved testing period was established, in part, to determine an appropriate period of time for generation to be maintained before any other changes in generation are made.

Based on the test data and in consultation with the WDNR, the licensee requested to amend the approved plan to include a timing component for the ramping procedures. The licensee proposed to maintain a gate position for a minimum of 15 minutes before making any subsequent adjustments in generation when implementing upramping or downramping procedures.

The licensee adequately implemented and completed the required testing of the operation plan. The proposed modifications provide for timely operational changes during trash rack cleaning and maintenance activities. The licensee incorporated the WDNR's comments into their request to amend the operating plan. The data indicated that the proposed modification to the ramping rate procedures should minimize downstream river fluctuations and ensure compliance with article 401. Therefore, the licensee's January 8 and March 10, 1999 filings, proposing that the approved operating plan be amended as discussed above, should be approved.

The Director orders:

(A) River Falls Municipal Utilities' proposal, filed January 8 and supplemented on March 10, 1999, to amend the Order Modifying and Approving Operation Protocol for the River Falls Project located on the Kinnickinnic River in Pierce County,

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Wisconsin is approved.

(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

J. Mark Robinson
Director
Division of Licensing & Compliance

OHL/DLC/LoVullo, T:jgh 4/20/99

153 FERC ¶ 62,175
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of River Falls, Wisconsin

Project No. 10489-014

ORDER DENYING EXTENSION OF LICENSE TERM

(Issued December 9, 2015)

1. On July 6, 2015, the City of River Falls, Wisconsin (City or licensee) filed a request to extend the termination date of its license for the River Falls Project.¹ The current license for the project expires August 31, 2018. The City seeks to extend its license term by 5 years so that it expires on August 31, 2023. The project is located on the Kinnickinnic River, in Pierce County, Wisconsin. The project does not occupy federal lands.

BACKGROUND

2. The City filed a Notice of Intent (NOI) to relicense the project and Pre-Application Document (PAD) on November 27, 2013. Along with this filing, the City submitted a request to use the Commission's Traditional Licensing Process (TLP). The Commission granted the City's TLP request on January 27, 2014. Initial comments and study requests were due for consideration by May 23, 2014. Study requests were filed by the U.S. Fish and Wildlife Service (FWS), Kinnickinnic River Land Trust, National Park Service (NPS), the Kiap-Tu-Wish Chapter of Trout Unlimited, Friends of the Kinni, and the Wisconsin Department of Natural Resources (Wisconsin DNR).²

3. On January 13, 2015, the River Falls City Council adopted resolutions recommending a request for a license extension for the River Falls Project, to allow for additional time to engage the community in a comprehensive river corridor planning process. The City intends to draft and adopt a Kinnickinnic River Corridor Planning Strategy (Corridor Plan) that would reflect a single community vision for the river, with or without the hydroelectric project. In meetings with stakeholders, the City says it

¹ Order Issuing License, 44 FERC ¶ 62,298 (1988).

² The requested studies include: hydrology, sedimentation, bathymetry, water quality, aquatic resources, erosion, wildlife, plant communities, invasive species, recreation, aesthetics, tourism, and economic analysis.

intends to fund and conduct studies so it can consider the option of surrendering the license instead of continuing with relicensing.

4. The results of the preliminary relicensing studies were expected to be completed by summer 2015. However, in a supplemental filing with the Commission on July 6, 2015, the City included a proposal for conducting a sediment study and a recreation study which are the primary issues for the corridor planning process. The City states that all of the other requested relicensing studies would be conducted as part of the river corridor planning process, which would take through 2017. The filing does not explain why the preliminary relicensing studies had not been initiated prior to the City's decision to request an extension of time.

LICENSE TERM EXTENSION REQUEST

5. The City requests a 5-year extension of its license term so that, during that time, it can work with stakeholders and the community to complete its Corridor Plan and decide whether to relicense the project or to surrender the license. The City states the additional time is needed so that it does not spend time and money relicensing the project only to determine through its Corridor Plan that the license should be surrendered and the project decommissioned. The City believes that a lengthy and expensive licensing process is the wrong process for making such a determination. The City explains that a decision about the future of the project would be made by the fall of 2017, and a notice of intent to relicense the project or a surrender application would be filed no later than August 31, 2018.

PUBLIC NOTICE AND COMMENTS

6. The Commission issued a public notice of the City's extension request on August 21, 2015, setting a deadline of September 21, 2015, for filing comments, motions to intervene, and protests. Twenty-five local citizens filed comments supporting the extension. The Kinnickinnic River Land Trust and the U.S. Department of the Interior, representing the FWS and the NPS, filed comments indicating support for the extension. Timely motions to intervene, along with comments supporting the extension, were filed by the Kiap-Tu-Wish Chapter of Trout Unlimited, the Friends of the Kinni, and the Wisconsin DNR. The River Alliance of Wisconsin filed a late motion to intervene, along with comments supporting the extension, which was granted by Secretary's Notice on December 9, 2015.

DISCUSSION

7. In its application, the City explains that the Commission must ensure that a project is in the public interest and best adapted to a comprehensive plan for developing a

waterway to benefit commerce, water-power development, environmental protection, and other beneficial public uses.³ The City believes that its decision to use the Corridor Plan as a vehicle for deciding whether to relicense or surrender the project fits this public interest standard and justifies its extension request.

8. We disagree with this rationale. Generally, the Commission has extended license terms in the past to enable a licensee to amortize the cost of substantial improvements to project facilities or substantial new environmental measures.⁴ The Commission has also extended license terms to coordinate the license expiration date with the expiration dates of other licenses in the same river basin.⁵ However, neither situation exists here. Nor can the City cite to unique circumstances or circumstances beyond the City's control that prevent it from making a determination by August 31, 2016 (when a relicense application is due) as to whether to relicense or to surrender the project. Many municipalities and local governments develop similar comprehensive river corridor plans. Furthermore, we see nothing in the City's application that would bar the City from continuing to work on relicensing (or surrender), while at the same time developing its Corridor Plan.

9. The City's new proposed studies will require additional time. In certain cases, statutory deadlines for filing a new license application make it necessary for a licensee to complete studies and file study reports after the filing of a final license application, in order to gather useable data for Commission staff, resource agencies, and other stakeholders. In general, these studies can be incorporated into the post-filing process of a relicensing proceeding without disrupting the overall proceeding.⁶

10. To support its request, the City points to several cases in which the Commission granted a license extension in order to allow for continued environmental study of a project. As cited by the City, the Commission extended the license for Montana Power

³ Section 10(a)(2)(A) of the Federal Power Act (FPA) requires the Commission to consider the consistency of proposed hydropower projects with comprehensive plans for waterways affected by the project. 16 U.S.C. § 803(a)(2)(A) (2012).

⁴ *Idaho Power Company*, 132 FERC ¶ 62,001 (2010); *PPL Holtwood, LLC.*, 129 FERC ¶ 62,092 (2009); *Wolf River Hydro Limited Partnership*, 116 FERC ¶ 62,166 (2006).

⁵ *Northern States Power Company*, 149 FERC ¶ 62,090 (2014); *Black Bear Hydro Partners, LLC.*, 140 FERC ¶ 62,194 (2012); *Black Bear Hydro Partners, LLC.*, 140 FERC ¶ 62,195 (2012); *Wisconsin Public Service Corporation*, 127 FERC ¶ 62,219 (2009); and *FPL Energy Maine Hydro, LLC.*, 118 FERC ¶ 61,043 (2007).

⁶ *TransCanada Hydro Northeast, Inc.*, 152 FERC ¶ 62,048 (2015).

Company's Milltown Dam Project No. 2543 because the project was part of a Superfund Site and the Environmental Protection Agency (EPA) needed 3 more years to make a final determination on how to reconfigure or operate the project to prevent the release of toxic chemicals. Montana Power Company was granted a 6-year extension to await the EPA's ruling and to evaluate whether that ruling would result in project termination.⁷ In that case, an additional burden was placed on the licensee by another federal agency that was beyond the licensee's control.

11. In a second case cited by the City, the Commission extended the license terms for three smaller community-owned projects to allow the licensees adequate time to economically amortize future investment.⁸ In that case, the City of Batesville,⁹ Arkansas and Independence County, Arkansas¹⁰ were each granted a 10-year extension of their 40-year licenses because 15 years into the license terms the projects had not begun construction, which left only 25 years for the licensees to recoup the costs of their investment. The extensions were granted in response to authorizing legislation from Congress. Although the projects in that case were owned by municipalities, the similarities to the present application end there.

12. In a third case, the City cites an extension of time granted to South Carolina Electric & Gas Company (SCE&G) to provide more time to conduct relicensing studies for the Saluda Project.¹¹ In the Saluda case, the project dam had to be modified and reinforced to better withstand earthquakes and the reservoir was lowered to protect downstream residents. All of this occurred just prior to the time when the licensee needed to conduct studies so it could file a relicense application. SCE&G requested an extension of its license term in order to conduct some of the required aquatic studies once the dam safety work was completed and the reservoir returned to its normal operating level. The Commission granted a 3-year extension of SCE&G's license term due, in part, to the unique circumstances of the dam safety situation in that case.

⁷ Order Extending Term of License, issued February 28, 1990 (unpublished).

⁸ *Independence County, Arkansas*, 94 FERC ¶ 62,047 (2001).

⁹ White River Lock and Dam No. 1 Project No. 4204.

¹⁰ White River Lock and Dam No. 2 Project No. 4660 and White River Lock and Dam No. 3 Project No. 4659.

¹¹ *South Carolina Electric & Gas Co.*, 105 FERC ¶ 61,226 (2003).

CONCLUSION

13. Although the City's request to extend its license term by 5 years has garnered support from commenters, most commenters support the extension because it will provide more time to explore the license surrender and dam removal option. As mentioned above, we see no reason why the City cannot evaluate both license surrender and relicensing in the remaining time it has to file a relicense application (due August 31, 2016). In fact, analysis of studies and feedback from agencies would help inform its decision of whether or not to continue to pursue the project.

14. When the license for the River Falls Project was issued, the Commission determined that a 30-year term was appropriate and in the public interest. The City has filed its NOI and PAD and has received Commission approval to use the TLP. The City is currently conducting studies to determine whether to file a relicense application or to surrender the project. We see no unique or extenuating circumstances to justify extending the license term at this time. The City remains able to work on both a relicensing option and a surrender option while it develops its Corridor Plan should the City wish to do so. Therefore, the City's application to extend its license term by 5 years should be denied.

The Director orders:

(A) The City of River Falls, Wisconsin's application, filed on July 6, 2015, to extend the license term for the River Falls Project from August 31, 2018, to August 31, 2023, is denied.

(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 FPA, 16 U.S.C. § 8251 (2012), and the Commission's regulations at 18 C.F.R. § 385.713 (2015). 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.

Jennifer Hill, Director
Division of Hydropower Administration
and Compliance

Document Content(s)

P-10489-014.DOC.....1

154 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

City of River Falls, Wisconsin

Project No. 10489-015

ORDER GRANTING REHEARING

(Issued March 17, 2016)

1. On January 8, 2016, the City of River Falls, Wisconsin (City), filed a request for rehearing of Commission staff's December 9, 2015 order denying the City's request to extend its license term for five years.¹ As discussed below, we grant rehearing.

I. Background

2. In 1988, the Commission issued an original 30-year license to the City for the operation of the 375-kilowatt River Falls Hydroelectric Project (project), located on the Kinnickinnic River, in Pierce County, Wisconsin.² The license expires August 31, 2018.

3. Under the Commission's regulations, a licensee for a minor project must notify the Commission at least 5 years before its license expires whether it intends to file a relicense application.³ If it timely notifies the Commission that it intends to seek a relicense, the licensee must file its relicense application at least 24 months before its license expires.⁴

4. The City filed a Notice of Intent to relicense the project, request to use the Commission's Traditional Licensing Process (TLP), and a Pre-Application Document on November 27, 2013. The Commission approved the City's TLP request on January 27,

¹ *City of River Falls, Wisconsin*, 153 FERC ¶ 62,175 (2015) (December 9 Order).

² *River Falls Municipal Utility*, 44 FERC ¶ 62,298 (1988).

³ 18 C.F.R. § 16.19(b) (2015).

⁴ 18 C.F.R. § 16.20(c) (2015).

2014, and several resource agencies and stakeholders filed study requests.⁵ On July 6, 2015, the City filed a request to extend the expiration date of its license by five years, until August 31, 2023.⁶ The City would then be required to notify the Commission of its intent to relicense the project by August 31, 2018, and file a relicensing application no later than August 31, 2021. The City stated that additional time was needed to work with stakeholders and the community to complete a comprehensive river corridor plan and determine whether to relicense the project or surrender the license. Notice of the City's request was issued on August 21, 2015, and several entities filed comments.

5. On December 9, 2015, Commission staff issued an order denying the City's request. The order noted that extensions of license terms have only been granted in a few specific instances, and concluded that none of those limited circumstances exist in this proceeding. The order stated that the licensee could evaluate both license surrender and relicensing in the remaining nine months it has to prepare and file a relicense application (i.e., by August 31, 2016), and further noted that the analyses and studies needed for a relicense application would help inform a decision on whether to continue to pursue relicensing.

6. The City filed a timely request for rehearing of the denial.

II. Discussion

7. On rehearing, the City argues that the order erred in: (1) determining that it could complete the studies and gather feedback from resource agencies and stakeholders prior to the August 31, 2016 deadline for filing a relicensing application; (2) dismissing the unanimous support from resource agencies and stakeholders; and (3) finding that no unique or extenuating circumstances justify extending the license term.

8. We find that the unique circumstances of this proceeding – the combination of unanimous stakeholder support for the extension, the tying of the extension to the development of a comprehensive river plan, and the fact that the licensee is a small municipality – demonstrate that a five year extension of the project license is in the public interest. All resource agencies and stakeholders support the City's proposal to

⁵ The requested studies include: hydrology, sedimentation, bathymetry, water quality, aquatic resources, erosion, wildlife, plant communities, invasive species, recreation, aesthetics, tourism, and an economic analysis.

⁶ Section 6 of the Federal Power Act states that "licenses ... shall be issued for a period not exceeding fifty years." 16 U.S.C. § 799 (2012). Thus, the Commission may extend a license term for a period no longer than fifty years from the date of issuance if it determines that such an extension is in the public interest.

extend the license term in order to complete the corridor plan and decide whether to seek a subsequent license or surrender the project. This strong support and lack of any adverse comments demonstrates that the City is not requesting an extension of the license term merely to delay the preparation of a relicense application and to continue generating under more favorable terms.

9. In addition, the City's request for an extension of its license occurred in the context of the River Falls City Council's decision to prepare a comprehensive corridor plan, which would help inform whether to relicense the project or surrender the license. The City has already engaged with stakeholders, resource agencies, and the community, and has completed two studies pursuant to the corridor plan. The City has also established a schedule whereby a decision on whether to relicense or surrender would be made by the fall 2017 and filed by August 31, 2018.

10. Last, allowing the City time to determine if it should relicense or surrender prior to having to file a relicensing application is the most efficient use of resources. As a small municipality, the City may incur significant costs in preparing and processing a relicensing application despite the fact that it may later surrender its license.

11. In the past, the Commission has extended license terms only in very narrow circumstances, for example, to amortize the cost of substantial new improvements or substantial new environmental measures,⁷ to coordinate the expiration dates of licenses in the same river basin,⁸ or because of unique circumstances or circumstances beyond a

⁷ *Idaho Power Company*, 132 FERC ¶ 62,001 (2010) (10-year extension of the license term due to the costs of replacing the project's existing powerhouse section containing 0.4-MW and 0.6-MW generating units with a new larger powerhouse section containing a single 50-MW generating unit); *PPL Holtwood, LLC.*, 129 FERC ¶ 62,092 (2009) (16-year extension of the license term due to costs associated with the construction of a new powerhouse; installation of two turbine generating units at the existing powerhouse and various environmental measures); *Wolf River Hydro Limited Partnership*, 116 FERC ¶ 62,166 (2006) (10-year extension of the license term due to costs associated with proposed environmental measures).

⁸ *Northern States Power Company*, 149 FERC ¶ 62,090 (2014) (5-year extension of license term to combine relicensing activities with another project); *Black Bear Hydro Partners, LLC*, 140 FERC ¶ 62,194 (2012), *Black Bear Hydro Partners, LLC*, 140 FERC ¶ 62,195 (2012) (3-year and 10-year extensions, respectively, of license terms for significant new construction and environmental measures and to coordinate expiration dates of the licenses); and *Wisconsin Public Service Corporation*, 127 FERC ¶ 62,219 (2009) (15-month extension of license term to combine relicensing activities with another project).

licensee's control.⁹ The Commission generally does not favor actions that delay the completion of licensing proceedings. The public interest in the timely issuance of licenses that reflect current environmental and developmental conditions at a project site, as well as administrative efficiency, counsel against doing so either lightly or often. However, given the relatively unique facts of this case, we find that an extension of the license term is in the public interest.

12. For the reasons discussed above, we grant the City's request for rehearing and extend the license term five years.

The Commission orders:

(A) The rehearing request filed by the City of River Falls on January 8, 2016, is granted.

(B) The license term for the River Falls Hydroelectric Project No. 10489 is extended to August 31, 2023.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁹ In *South Carolina Electric & Gas Co.*, 105 FERC ¶ 61,226 (2003), the Commission extended the term of the license for five years to give the licensee adequate time to conduct studies needed to prepare its relicense application once the project reservoir was refilled (after being drawn down for repairs) and the affected environment had returned to near normal. The Commission and its staff also granted a series of license term extensions (5 extensions totaling 15 years) for the Milltown Project after the U.S. Environmental Protection Agency (EPA) included the project in a Superfund Site. The extensions would give the licensee time after the EPA determined site cleanup measures to decide whether to seek a relicense or surrender its project and prepare the appropriate application. See *Clark Fork and Blackfoot, LLC*, 105 FERC ¶ 61,048 (2003) and previous extensions cited therein.

173 FERC ¶ 62,003
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

River Falls Municipal Utility

Project No. 10489-018

ORDER GRANTING TEMPORARY VARIANCE OF ARTICLE 401

(Issued October 1, 2020)

1. On September 25, 2020, and supplemented on October 1, 2020, River Falls Municipal Utility, licensee for the River Falls Hydroelectric Project No. 10489, filed a request for approval to drawdown the reservoir at the Powell Falls development, necessitating a temporary variance from Article 401 of the license.¹ The project is located on the Kinnickinnic River, in Pierce County, Wisconsin. The project does not occupy federal lands.

2. Article 401 requires the licensee operate the project in an instantaneous run-of-river mode to protect fish and wildlife resources, and minimize fluctuations of each reservoir surface elevation, i.e., maintain the discharge from each powerhouse that approximates the instantaneous sum of inflow of each reservoir.

3. The project consists of two developments, the Junction Falls and Powell Falls developments. The Powell Falls development consists of 110-foot-long, 16.5 foot high concrete dam located approximately 0.5 mile downstream of the Junction Falls development; a reservoir (Lake Louise) with a surface area of 15.4 acres and a storage capacity of 37 acre-feet at elevation 820 feet mean seal level; a powerhouse containing one generating unit rated at 125 kilowatt (kW); and appurtenant facilities.

Background

4. On July 16, 2020, the licensee filed a Part 12 report with the Commission's Division of Dam Safety and Inspections-Chicago Regional Engineer (D2SI-Chicago Regional Engineer) regarding heavy rains in the project area on June 28-29, 2020. The report indicated that about 7-8 inches of rain fell over a span of 12 hours in the Kinnickinnic watershed. As a result, a flash flood occurred on June 29, 2020.

¹ *River Falls Municipal Utility*, 44 FERC ¶ 62,298 (1988).

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5. At its highest point, water was about seven feet above the crest of the dams. No injuries occurred nor was the Emergency Action Plan activated. However, the event caused significant damage to the Powell Falls development right training wall, as well as other project-related equipment. The reservoir is currently several feet lower than normal due to this damage.

6. By letter dated September 10, 2020, the D2SI-Chicago Regional Engineer requested the licensee provide a plan and schedule to address the damage to the Powell Falls development, to include a drawdown of the reservoir, if necessary,² to fully investigate the extent of damage to the retaining wall. The September 10 letter indicated that approval by the Commission may be necessary for such a drawdown.

Licensee's Request

7. In its September 25, 2020 filing, the licensee requests approval of a reservoir drawdown at the Powell Falls development in order to fully investigate the extent of damage due to the flood waters that occurred on June 28-29, 2020.

8. After consultation with the resource agencies and to minimize any impacts to trout spawning and overwintering amphibians and reptiles, the licensee requests to initiate drawdown on October 1 and complete it by October 15. The licensee anticipates the reservoir will remain at the lower elevation through the winter with the possibility of restoring reservoir elevations as flows increase and conditions allow in the spring of 2021. The licensee suggests that the drawdown may continue until completion of an internal review on the long-term future of the Powell Falls development.³

9. The licensee proposes a drawdown rate not to exceed 24 inches/day, with a goal of no more than 12 inches/day. The licensee proposes to install a dissolved oxygen (DO) sensor downstream of the Powell Falls Dam and monitor DO throughout the drawdown. The licensee proposes a tentative refill rate of 24 inches/day, as well as passing an unspecified minimum flow (based on 7Q10 flows⁴) during the refill period. After refill, run-of-river operation would be restored.

² The damage that occurred to the training wall have already resulted in a lower reservoir elevation in Lake Louise, until repaired.

³ Currently, the project is undergoing relicensing and in the pre-application document filed on August 30, 2018, the licensee is proposing to decommission the Powell Falls development. Studies, as well as development of a decommissioning plan, are ongoing.

⁴ A 7Q10 flow is based on the lowest 7-day average flow that occurs (on average)

Consultation

10. The licensee included documentation of coordination and consultation with several federal and state resource agencies on the proposed drawdown, including the Wisconsin Department of Natural Resources (Wisconsin DNR), the Wisconsin State Historic Preservation Officer (Wisconsin SHPO), and U.S. Fish and Wildlife Service (FWS). The Wisconsin DNR concurred with the proposed drawdown and expressed its desire for quick approval in order to have the drawdown complete by October 15, in order to avoid impacts to trout spawning. FWS deferred to the Wisconsin DNR. The Wisconsin SHPO did not respond. The licensee also states that it began notifying the general public, as well as other local and regional stakeholders, about the drawdown.

11. On September 30, 2020, the Kiap Trout Unlimited Wish Chapter (TU) filed comments on the drawdown, including recommendations for additional water quality monitoring. TU indicates its support of the drawdown but also requests additional information. On October 1, 2020, the licensee filed a response to these comments, indicating it had met with TU at the project on September 29, 2020, to address its concerns. In the October 1 filing, the licensee agrees to additional water quality monitoring, particularly that of water temperature, turbidity, total suspended solids, and total phosphorus, to occur before, during (i.e., daily) and after the drawdown.

Discussion

12. The need for the drawdown has been documented in the licensee's reports filed on July 16 and September 25, 2020, and was suggested by the D2SI-Chicago Regional Engineer, to evaluate the extent of damage to the project. The October 1 drawdown start date was proposed in order to complete the drawdown prior to the beginning of trout spawning season, as well as to reduce impacts to amphibians and reptiles that may overwinter in the project reservoir. Wisconsin DNR recommended the rate of drawdown and the proposed schedule. We also recognize TU's support of the drawdown. Approving a drawdown that would be complete by October 15 would minimize any adverse impacts to trout spawning, as well as any overwintering species.

13. We understand that decommissioning the Powell Falls development is being considered, and much depends upon the extent of flood damage to be identified in investigations after the drawdown is complete. Nevertheless, Commission staff must identify here when the licensee can expect to resume normal operations. Based on the September 25 filing, we expect the normal operations are to resume no later than June 1, 2021. If the drawdown needs to be extended for the reasons discussed in this order, or

once every 10 years.

Project No. 10489-018

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due to the extent of the damage, the licensee may request additional time, allowing for a 30-day comment period from the resource agencies and well as Commission approval.

14. Little detail was provided regarding refill of the impoundment next spring. Therefore, the licensee should file an impoundment refill plan for Commission review and approval by April 1, 2021. This plan should include a description of the rate of refill and the minimum flow to be released downstream during refill, as well as provide documentation of consultation with the Wisconsin DNR, FWS, and TU. Each entity should be given 30 days to comment. The licensee's filing should include a response to any comments.

15. Based on the unique circumstances of ascertaining the damage to the project and the resource agencies' desire to have the reservoir drawdown completed by October 15 to avoid environmental impacts, the licensee's request to deviate from the requirements of Article 401 from October 2020 through May 2021 should be approved.

The Director orders

(A) River Falls Municipal Utility's request for a temporary variance of Article 401 of the license at the Powell Falls development of the River Falls Hydroelectric Project No. 10489, filed on September 25, 2020, as modified in paragraphs (B) and (C), is approved.

(B) The drawdown is authorized to begin on October 1, 2020. Normal reservoir elevations shall be established by June 1, 2021.

(C) By April 1, 2021, the licensee shall file for Commission approval, an impoundment refill plan. This plan shall identify the rate of refill of the impoundment, as well as the flow to be maintained downstream during refill. The licensee shall consult with the Wisconsin Department of Natural Resources, the U.S. Fish and Wildlife Service, and the Kiap Trout Unlimited Wish Chapter. Each entity shall be given 30 days to comment. The licensee's plan filed with the Commission should include a response to these comments.

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(D) 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 (2020). 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.

Kim A. Nguyen, Chief
Environmental and Project Review Branch
Division of Hydropower Administration
and Compliance

Document Content(s)

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Appendix F

Subscription and Verification

City of River Falls Municipal Utilities
222 Lewis Street
River Falls, WI 54022
Phone: (920) 462-0220

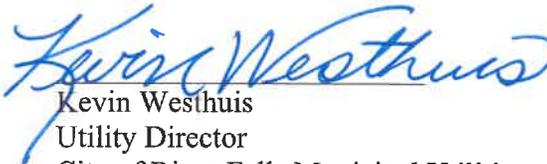
Project No. 10489 – River Falls Hydroelectric Project

Subject: APPLICATION FOR NON-CAPACITY AMENDMENT OF LICENSE

VERIFICATION

State of Wisconsin)
)
County of Pierce)

I, Kevin Westhuis, City of River Falls Municipal Utilities, being first duly sworn, deposes and states that the contents of this application are true to the best of his knowledge or belief. The undersigned applicant has signed this application this 9th day of July, 2021.


Kevin Westhuis
Utility Director
City of River Falls Municipal Utilities
222 Lewis Street
River Falls, WI 54022

Subscribed and sworn to before me this 9th day of July, 2021.

C. Campbell
(Signature of Notary Public)

My Commission Expires: 6/23/23

