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January 14, 2025

VIA Electronic Filing

Ms. Debbie-Anne Reese, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Subject: **Response to Notice of Application Ready for Environmental Analysis**
Saxon Falls Hydroelectric Project (FERC Project No. 2610-012)
Superior Falls Hydroelectric Project (FERC Project No. 2587-066)

Dear Secretary Reese:

On October 10, 2024, the Commission issued its Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions for the Saxon Falls Hydroelectric Project ([Accession # 20241010-3048](#)) and the Superior Falls Hydroelectric Project ([Accession #20241010-3041](#)). Accordingly, Northern States Power Company (NSPW) hereby submits its responses to the comments and recommendations provided by American Whitewater, U.S. Department of Interior, Michigan Department of Environment, Great Lakes and Energy, Friends of the Gile, Michigan Department of Natural Resources, Michigan Hydro Relicensing Coalition, River Alliance of Wisconsin, and Wisconsin Department of Natural Resources.

The information is organized in table format, enclosed as Appendix 1, that displays the agencies' comments and recommendations and NSPW's corresponding response.

Should you have any questions, please contact Matthew Miller at 715-737-1353 or matthew.j.miller@xcelenergy.com or Darrin Johnson at 608-443-0313 or darrin.johnson@meadhunt.com.

Sincerely,

Scott Crotty

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Scott Crotty
Senior Hydro Operations Manager

Enclosure

cc via email: Alyssa Wethy, NPS
Cathy Techtman, FOG
Cheryl Laatsch, WDNR
Darin Simpkins, FWS
Douglas Bridges, EGLE
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Appendix 1 - Reply Comment Table

Saxon Falls and Superior Falls License Recommendations and NSPW Responses

#	Stakeholder & Description	Comment	NSPW
AW1	American Whitewater (AW) Comments 12/09/2024	<p>AW Recommendation 1. American Whitewater supports coordination of license requirements for the Superior Falls Project (P-2587), Saxon Falls Project (P-2610), and Gile Flowage Storage Reservoir Project (P-15055).</p> <p>In past comments we have noted the importance of taking an integrated approach to the licensing of these projects; such an approach is necessary for purposes of a basinwide analysis and an outcome that will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for all beneficial public uses including recreation. Given the interrelated nature of operations of these three projects, and the fact that all are undergoing relicensing simultaneously, American Whitewater believes it would be in the public interest to evaluate all three projects and the proposed protection, mitigation, and enhancement measures in a single environmental review document.</p> <p>The Commission should include a clear plan for how integration and coordination between these three projects, for both recreational and environmental measures, can be best achieved. We believe that reviewing all three projects through a single environmental review document would be most efficient for all stakeholders, lead to better environmental outcomes, and be in the public interest. This approach would allow for a comprehensive understanding of individual project effects and cumulative effects and provide an efficient means of evaluating interrelated issues associated with all three projects in the basin; it would enhance the ability of the Commission to issue license decisions that are best adapted to a comprehensive plan for the waterway consistent with Section 10 of the Federal Power Act.</p> <p>In the event that the Commission elects to proceed with three separate environmental reviews and issuance of separate licenses, American Whitewater requests that the Commission include a section in each environmental review document explicitly covering project integration that results in a comprehensive plan for improvement of the waterway for all beneficial public uses. We also request that environmental review documents be issued concurrently and support the concurrent issuance of license decisions for all three projects with a common license term. In addition, the license for all three Projects should include an explicit requirement to evaluate the impact of any future license amendment or update to management plans for its impact on the license requirements of the other Projects on the Montreal River.</p>	<p>The decision to prepare one environmental review document for all three Projects or one for each Project is at the discretion of the Commission. Regardless, the Commission will incorporate the environmental protection, mitigation, and enhancement measures they deem necessary for each Project into each license issued.</p> <p>In SD2 the Commission stated the following:</p> <p><i>"As section 1.0 of SD1 indicated, Commission staff will prepare either an EA or an EIS that describes and evaluates the probable effects, including an assessment of the site-specific and cumulative effects of the proposed action and alternatives. While the scoping process helps staff determine the required level of analysis for the proposed licensing, staff needs to collect additional information on environmental effects before the applications are ready for environmental analysis. When the applications are ready for environmental analysis, staff will issue an REA Notice that provides entities with an opportunity to file comments, recommendations, terms, conditions, and fishway prescriptions. After staff receives responses to the REA Notice, staff will be able to determine whether or not licensing the projects could have a reasonably foreseeable significant effect on the quality of the human environment (i.e., whether to issue an EIS or an EA, respectively). At that time, staff will issue a notice of intent indicating whether an EIS or EA will be prepared. Similarly, staff will determine whether it is appropriate to consolidate the environmental analyses of the three projects into a single NEPA document after entities have an opportunity to respond to the REA Notice."</i></p>
AW2	AW Comments 12/09/2024	<p>AW Recommendation 2. Superior Falls. American Whitewater supports the relocation of the hand-carry boat take-out from its current location, 1,050 feet upstream of the dam, to a new site 300 feet upstream.</p> <p>This new access point will serve as the take-out for the run through the Montreal Canyon. At the existing site, boaters park along the road, creating potential safety hazards. In contrast, the proposed site offers off-road parking and additional space for staging and loading boats and gear. While boaters typically prefer to minimize the distance paddled across the flatwater of a reservoir, the extra 700 feet is acceptable in exchange for the improved parking and staging area. This is supported by the finding that "boaters indicated the proposed canoe portage take-out was preferred to the existing take-out at Hwy 122."</p>	Comment noted.
AW 3	AW Comments 12/09/2024	<p>AW Recommendation 3. Saxon Falls. American Whitewater supports the proposal to discontinue maintenance of the non-project hand-carry boat access site located on the shoreline of the Saxon Falls impoundment, near the dam, and instead provide access for hand-carry boaters at the project boat ramp.</p> <p>However, American Whitewater requests that the site design include separate areas for trailered and hand-carry watercraft. Given the different launching and staging requirements of each, conflicts can arise when both user groups share the same facility. Unloading hand-carry watercraft, loading gear, and preparing for launch require space and time. If these</p>	This recreation site is primarily used to provide reservoir access for small, motorized boats, canoes, and kayaks for fishing, hunting, and pleasure boating. During the recreation surveys completed in 2021, a total of 14 users were observed at this site over 14 randomly selected weekdays, weekends, and holiday weekends between June and September (see Section 8.3.4.1 of Exhibit E of the FLA). Recreational use at the site ranged from a minimum of no users to a maximum of four users at one time. The proposed whitewater flow releases are not expected to increase the use of this site as the whitewater boaters put in at the downstream Saxon Falls Tailwater Access/Canoe Portage Put-in site. Therefore, the recommendation to have separate areas for staging and launching is not warranted. In the event the site is at or over capacity, there is additional overflow parking available nearby adjacent to the Project dam.

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		<p>activities take place on the boat ramp, they can interfere with trailered boaters who need the ramp to launch.</p> <p>Therefore, it is common practice to have segregated staging and shoreline launch areas that are separate, but adjacent, to the boat ramp when both types of launch facilities are co-located.</p>	
<p>AW 4</p>	<p>AW Comments 12/09/2024</p>	<p>AW Recommendation 4. American Whitewater supports the proposed establishment of the Tailwater Access stairway as a formal access point to the Montreal Canyon.</p> <p>We also endorse the replacement of signage on the gate indicating that use of the stairs to access the tailwater area is prohibited. The licensee has proposed a program where users could purchase electronic keys (for a one-time fee) to access the locked gate at the top of the stairs, enhancing both access and safety at the site.</p> <p>While we understand that unrestricted access may not be suitable for this location, we request a more thorough evaluation of alternative options and additional details on this proposal. The electronic key system could be effective for local paddlers or frequent users, but it may not be practical for occasional visitors—those who may come only once a year or decide to run the river based on changing conditions and forecasts. As alternatives, we ask that the licensee consider allowing boaters to call ahead for gate access or to open the gate on weekends during daylight hours, especially when optimal flows are present in the canyon that primarily occurs in April. We believe these alternatives should be fully evaluated in the Commission’s environmental analysis.</p>	<p>Due to the remote nature of the Montreal River Canyon, and the fact that there are no egress points between the Saxon Falls tailwater and the upper portion of Superior Falls Flowage, the boating trip is typically one that requires advanced planning. This would allow potential boaters to obtain keycard access before traveling to the site. Once a keycard is secured, access remains available to the individual without the need for renewal. For group access to the site, only one individual in the party will be required to have a keycard. The greatest security benefit of the keycard system is to make NSPW aware of the presence of boaters on the Montreal River or individuals on the access stairs or bridge below the hill. If AW is concerned that boaters may not be aware of the keycard system for access, they can post the details on their website once the system is implemented. The website could also include information on how to request a keycard from NSPW as well as contact information for local boaters that have keycards. NSPW is quite certain that local boaters would enjoy the opportunity to partner with the occasional visitor.</p> <p>Furthermore, due to the remote location of the site, a keycard access system would provide additional security by reducing the potential for vandalism to the nearby powerhouse and associated structures. Since the plant is not continuously staffed, it is not reasonable to expect the operator to travel to the site to open the gate whenever a potential boater decides they want access. AW’s recommendation to leave the gate open during daylight hours during the month of April would not provide the desired security and public safety measures as discussed above and would require an operator to visit the site multiple times each day to open and close the gate. This is not an efficient use of the operator’s time. It is for these very reasons that NSPW proposed the keycard access system. By having a keycard, recreationists may access the gate whenever conditions are suitable for boating, without the burden for NSPW staff to be present.</p> <p>In Section 8.7.1.5 of Exhibit E of the FLA, NSPW stated that it would provide specifics for the proposed keycard access system when the Whitewater Recreation Plan is developed. However, those discussions regarding the specifics should be consistent with NSPW’s approach outlined above.</p>
<p>AW 5</p>	<p>AW Comments 12/09/2024</p>	<p>AW Recommendation 5. American Whitewater supports development of a whitewater recreation plan that includes provisions for two, 3-hour whitewater flow releases in June and September of 1,200 cfs, and generator ramping rates for whitewater flow releases.</p> <p>The Licensee conducted a study on May 15, 2021 that included participation by eleven individuals at flows of 700 cfs and 950 cfs. The boaters’ responses for the optimal flow for a standard trip ranged from 950 to 2,500 cfs, with an average of 1,200 cfs, and the single preferred flow was 1,259 cfs. At least half of the boaters stated that flows less than 700 cfs would not provide boating opportunities, while over 80% of boaters felt that flows from 800 to 1,200 cfs would provide desirable boating opportunities. American Whitewater supports provisions to coordinate scheduled whitewater boating opportunities with a 1,200 cfs release from the Gile Flowage Project. Considering the 10-hour travel time between Gile Flowage and the Montreal Canyon, it would be possible to offer a whitewater boating opportunity in the morning on the West Branch Montreal and another in the evening on Montreal Canyon. However, combining both options in one day would not provide optimal timing for either. American Whitewater supports the development of a whitewater recreation plan that includes both opportunities on the same day, but requests that the impact on operational efficiency and user satisfaction be evaluated.</p> <p>In any future license and associated whitewater recreation plan, American Whitewater requests a consultation requirement for an annual meeting to be held for purposes of discussing whitewater recreation measures, resolving any issues regarding implementation of the whitewater recreation plan, and scheduling whitewater opportunities at this Project and the Gile Flowage Project upstream. American Whitewater requests a review of the whitewater recreation plan three years after its implementation, and every 10 years</p>	<p>NSPW proposed to develop a Whitewater Recreation Plan for the Saxon Falls, Superior Falls, and Gile Flowage Projects as stated in Exhibit E of their respective final license applications. The Plan would provide whitewater boating opportunities on the West Fork of the Montreal River downstream of the Gile Flowage and the Montreal River downstream of the Saxon Falls Project. NSPW supports consultation with AW, NPS, FOG, and other interested parties when developing the Whitewater Recreation Plan. The tentative plan is to provide two releases, one in June and one in September. The specific weekends for the releases would be included in the final Plan. Each release would last approximately three hours at a discharge of 1,200 cfs. Once the Plan is finalized, NSPW expects the flow releases will occur on the same weekends each year and will not change unless there are extenuating circumstances. NSPW also supports adding a provision to the Plan requiring an annual meeting to evaluate each year’s flow releases (including operational efficiency and user satisfaction).</p> <p>The monthly timing, frequency, and magnitude of the flows proposed by NSPW were selected to minimize adverse environmental and recreational impacts within the Montreal River, West Fork, and the Gile Flowage. Flow releases conducted on two consecutive days would result in additional adverse environmental and recreational impacts not currently analyzed as part of the FLA because the specifics of the request were not provided in the stakeholders’ proposed license recommendation. NSPW provided an in-depth evaluation of the proposed whitewater releases as part of the relicensing process. This included a discussion with the boaters regarding the timing, frequency, and duration of the releases during the 2021 whitewater flow release study. For these reasons NSPW believes it has struck an appropriate balance among all users of the resource.</p> <p>AW’s recommendation to review the plan 3 years after implementation and every 10-years thereafter is unnecessary as the plan already includes a provision to annually review the whitewater releases with the boaters. Any needed changes arising from the annual evaluation would be implemented by NSPW as appropriate and in consultation with the resource agencies.</p>

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		<p>thereafter. The review should assess the adequacy of public access, any impact on Gile Flowage property owners, operational considerations for the licensee, public safety, and the suitability of the timing, duration, and magnitude of flow to ensure a quality recreational experience for whitewater boating. Several commenters on the docket highlighted concerns about the travel time to the Montreal Canyon, the challenges of evening boating, and the value of offering opportunities on both days of the weekend. These factors should be evaluated during the first three years of the plan's implementation, with any recommended modifications. The review process should involve consultation with American Whitewater, the National Park Service, Friends of Gile Flowage, and other interested parties.</p>	
AW 6	AW Comments 12/09/2024	<p>AW Recommendation 6. American Whitewater supports publishing river flow information on the internet for flow in the Montreal Canyon downstream of the Saxon Falls Powerhouse.</p> <p>The information is critical for boaters who wish to experience and enjoy opportunities to boat the Montreal Canyon during times of high flow in the spring that are in addition to the scheduled events described above.</p> <p>Based on the hydrology of the system we expect these opportunities will primarily occur in April. We request that real-time flow information be made available on the company website utilizing an API that our organization could use to integrate the data into our website. The applicant's website should also include information on how to access the river at the Tailwater Access and any forecast or operational information that could affect instream flows.</p>	<p>NSPW has proposed to provide daily flow information online for the Saxon Falls Project. However, we have security concerns regarding our corporate server and the potential risks of providing an API interface that may be used by AW. At the very minimum, AW could provide a link to NSPW's website with the flow information. The NSPW website will also provide information on how to obtain keycard access to the Tailwater Access/Canoe Portage Put-in site and identify the timing of any required whitewater flow releases from the Gile Flowage. NSPW is not proposing to provide any additional forecast or operational information on its website as boaters have access to multiple weather forecast websites and NSPW's operational forecasts at the Gile Flowage change very little from day-to-day with the exception of runoff events.</p>
AW 7	AW Comments 12/09/2024	<p>AW Recommendation 7. For recreation, we recommend inclusion of review and consultation requirements for recreation measures with American Whitewater, National Park Service, Friends of Gile Flowage, and other interested parties.</p> <p>In addition, a reporting requirement should be included that specifically includes discussion of coordination of measures and any proposed modifications among these three projects.</p>	<p>In Section 8.7.1.5 of Exhibit E of the FLA, NSPW proposed to consult with AW and the National Park Service (NPS) in the development of the Whitewater Recreation Plan. NSPW supports including FOG and other interested parties when developing said plan.</p> <p>NSPW supports the development of a Recreation Plan for each Project, separate from the proposed Whitewater Recreation Plan, to include the recreational improvements proposed at FERC-approved recreation sites owned and maintained by NSPW. NSPW supports a separate plan because, according to experience, the initial consultation required to develop the Whitewater Plan will need to be more robust than the proposed Recreation Plan. In Section 8.7.1 of Exhibit E of the FLA, NSPW proposed to make improvements to the Saxon Falls Boat Launch/Canoe portage Take-out, Scenic Overlook, and Tailwater Access/Canoe Portage Put-in sites as well as routine maintenance of the sites throughout the license term. In Section 8.7.2 of Exhibit E of the FLA, NSPW also proposed improvements to the Superior Falls Canoe Portage Take-out, Scenic Overlook and Tailwater Access sites as well as routine maintenance of the sites throughout the license term.</p> <p>NSPW supports a Recreation Plan for each Project that includes a description of all FERC approved recreation sites (other than those included within the proposed Whitewater Recreation Plan). The Recreation Plans will also include a description of signage, a list of the existing and proposed improvements to each site, conceptual designs for new facilities, and a schedule for completing all proposed improvements. NSPW will consult with AW, NPS, FOG, MDNR, WDNR, and other interested parties when developing the plans. Recreation sites that are not owned or managed by NSPW will not be included in the plan since they are not under NSPW's control. Any future improvements planned for these sites will be the sole responsibility of the owner. Once the recreation plan is developed and the improvements made, there is no need to continue ongoing consultation on recreation sites. The required measures within each Recreation Plan are independent of each other and do not require specific coordination between Projects. Therefore, NSPW anticipates development of a separate Recreation Plan for each Project.</p>
AW 8	AW Comments 12/09/2024	<p>AW Recommendation 8. In the event that the Commission elects to proceed with three separate environmental reviews and issuance of separate licenses, American Whitewater recommends that the license for Superior Falls, Saxon Falls, and Gile Flowage Project all include a specific requirement to coordinate protection, mitigation, and enhancement measures among all three projects.</p>	<p>The Commission will evaluate the environmental protection, mitigation and enhancement measures necessary for each Project and incorporate them in each Project license as appropriate. Therefore, a separate requirement to coordinate measures is redundant and unnecessary.</p>

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AW 9	AW Comments 12/09/2024	<p>AW Recommendation 9. American Whitewater supports the proposed measures for all three Projects to update directional and safety signage to meet current standards and recommends utilization of safety signage that our organization recently developed with support from the U.S. Coast Guard and the input of approximately 200 river safety professionals.</p> <p>Our toolkit is available on our website at: <https://www.americanwhitewater.org/content/Safety/signage>.</p>	NSPW will utilize safety signage that is consistent with the safety signage at its other hydroelectric facilities in Wisconsin to minimize costs and provide a consistent safety message.
AW 10	AW Comments 12/09/2024	<p>AW Recommendation 10. Regarding license terms for the Projects, American Whitewater supports a 40-year license term for all three projects.</p> <p>In its Policy Statement on license term the Commission established a 40-year default license term for original and new licenses. The projects do not include the construction of pumped storage facilities, fish passage facilities, fish hatcheries, substantial recreation facilities, dams, or powerhouses that the Commission has cited as measures that could warrant a longer license term. It is important to note that the Saxon Falls Project has already benefited significantly from an extension of its previous license term, which was set to expire in 2019. This extension was granted without any additional mitigation measures.</p>	<p>As noted in Section 2.1.2 of Exhibit E of the FLA for Gile Flowage, the Licensee is working with the DDSI to evaluate upgrades to the spillway to meet FERC dam safety standards. It is estimated that these improvements could cost approximately ten million dollars.¹</p> <p>Pursuant to the Commission’s policy on license terms for hydroelectric projects, FERC may consider issuing a license for a term longer than the standard 40-year license term when significant measures, such as those associated with the proposed spillway project, are required, provided it does not conflict with the coordination of license terms for projects located within the same river basin. As noted in Section 1.2 of Exhibit H of the FLA for Gile Flowage, the cost to replace power generated at the Saxon Falls and Superior Falls Projects from the water released at Gile Flowage is estimated at \$123,073. Thus, NSPW believes the estimated costs associated with the pending dam safety improvements more than justifies license terms greater than the 40-year standard for all three Projects.</p> <p>In order to coordinate license terms with the downstream Saxon Falls and Superior Falls Projects, the Licensee requested 50-year license terms for the downstream projects and a term of 49 years and five months for the Gile Project in its November 7, 2024 letter to the Commission. This schedule will allow for coordination of future relicensing efforts on the Montreal River and provide for a comprehensive, basin-wide analysis of the projects’ impacts.</p> <p>The majority of changes proposed in the FLA’s for the three projects are associated with recreation, including whitewater boating, recreation site improvement, and viewing of the waterfalls. Any concerns regarding changes needed to whitewater boating under the pending license can be addressed as part of the re-evaluation process previously discussed under AW comment 5 above. Any improvements needed for recreation facilities can be addressed by adding a requirement to re-evaluate recreation needs just prior to year 40 of the upcoming licenses.</p>
AW11	AW Comments 12/09/2024	<p>AW Recommendation 11.</p> <p>It is the Commission’s policy with respect to recreational development at licensed projects to “seek, within its authority, the ultimate development of [recreational] resources, consistent with the needs of the area to the extent that such development is not inconsistent with the primary purpose of the project. We believe a significant opportunity exists to address whitewater recreation at the Projects and that the applicant’s proposed measures, with minor modifications, will allow the public to utilize these opportunities. Because Notices in these proceedings have been issued separately and the Commission appears to be treating environmental review of these Projects independently, we recommend clear consultation and review requirements to ensure coordination of measures.</p>	See NSPW’s response to AW Recommendation 8.

¹ The Licensee previously provided an estimate of 5 million dollars in its November 7, 2024 License Amendment Application. The most recent analysis now estimates the cost of improvements at approximately 10 million dollars.

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<p>DOI 1</p>	<p>US Department of Interior (DOI) Comments 12/06/2024</p>	<p>DOI Recommendation 1. Develop and Coordinate a Single Environmental Review Document and Process to Address Concerns related to Saxon Falls, Superior Falls, and Gile Flowage.</p> <p>The Department recommends that a single environmental review process and document be developed and coordinated to address concerns related to the Saxon Falls (P-2610), Superior Falls (P-2587), and Gile Flowage (P-15055) hydropower projects. In the event that FERC issues separate licenses, since the hydrology and project operations are connected, the Department recommends that a condition be placed in each license that consider reevaluation of license conditions if changes occur in the other connected licenses.</p> <p>Rationale: Due to the interdependence of Saxon Falls and Superior Falls Projects on releases from Gile Flowage for power generation, and the impacts of those releases on flow-dependent recreation on the West Fork Montreal River and Montreal River below Saxon Falls, and water-level-affected recreation and land use at Gile Flowage, assessing impacts on recreation at all three projects would be best accomplished through a single environmental review process. The single process would also address impacts on other resources affected by flows and reservoir levels stemming from the interconnected project operations. This approach would allow for a comprehensive understanding of individual project effects and cumulative effects and provide an efficient means of evaluating interrelated issues associated with all three projects in the Montreal River Basin. A single environmental document and review process, in turn, would enhance the ability of FERC to issue license decisions that are best adapted to a comprehensive plan for the waterway consistent with 16 U.S. Code § 803(a).</p>	<p>See NSPW's response to AW Recommendation 1.</p>
<p>DOI 2</p>	<p>DOI Comments (12/06/2024)</p>	<p>DOI Recommendation 2. Provide Signage and Website Showing Flow and Lake Level Information</p> <p>In the Final License Application (FLA), Northern State Power Company-Wisconsin (NSPW) proposes to provide discharge and reservoir elevation information via the Internet. In addition to this proposal, the Department recommends NSPW:</p> <ul style="list-style-type: none"> • Provide informational signage at the Project sites, including the portage sites, tailrace areas, and other recreation areas along the rivers and reservoirs. The signage should include a QR code and the website address so that the public can access up-to-date information on real-time flows, reservoir elevation, flow release schedules, and how to access the Tailwater access sites. • Share real-time flow information for the public online and make the data available for use by third-party sites using an Application Programming Interface (API). • Consult with the National Park Service (NPS), the Wisconsin Department of Natural Resources (DNR), Friends of Gile Flowage (FOG), American Whitewater (AW), and local recreation users on developing a public website, including discussions on content and location. <p>Rationale: The Department supports NSPW's recommendation to provide flow release information to the public online. The additional information the Department requests regarding website content, location, and signage will help improve the visitor experience and safety in the Project area. It is pertinent to identify where this information will be located on the Internet to give stakeholders and the public a better understanding of where to find flow release and storage reservoir elevation information. Moreover, ensuring NSPW creates the website data in a way that allows third-party sharing of the data will allow for greater public access to the information.</p> <p>The Department requests that NSPW provide real-time flow information, whitewater class, and difficulty level, information on how to access the river at the Tailwater access sites, and other relevant site information that is easily accessible. Such information should be included on signage and online. Signage at the Project's portage site and other recreation sites should show general information on reservoir water levels, flow releases, and other aspects of the Project that affect recreation opportunities and experiences and include a website</p>	<p>See NSPW's response to AW Recommendation 6. NSPW's proposal for website content would be limited to daily flow information, instructions for whitewater access, and a link to the AW website. AW's website is already the primary source for whitewater boaters regarding the additional information (i.e., signage, whitewater class, difficulty level, etc.) requested by DOI. Having whitewater information on a separate and redundant website can lead to discrepancies which could result in conflicting and/or confusing information. For these reasons, NSPW disagrees with the DOI's recommendation for a separate and independent website maintained by NSPW, nor does it believe a QR code is necessary because whitewater boating is not the same type of spontaneous recreation activity such as hiking.</p>

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		address and QR code for the public to access real-time information. This would provide for advanced and more informed recreational decisions by the public, thereby improving the visitor experience and safety. Other hydropower project licensees provide this information to the public, including Grandfather Falls (P-1966).	
DOI 3	DOI Comments 12/06/2024	<p>DOI Recommendation 3. Evaluation of the Electronic Key Proposal and Alternatives to River Access</p> <ul style="list-style-type: none"> Evaluate options for providing access at the Tailwater Access area, including the proposed electronic keys proposal and other potential alternatives to providing access. Evaluate the electronic keys proposal and other alternatives in consultation with American Whitewater, the NPS, and other interested stakeholders. <p><u>Rationale:</u> The electronic keys proposal needs further evaluation and details for accessing the Tailwater area. The evaluation will help find the best solution to providing access to local paddlers, frequent users, and visitors. Electronic key usage may be best only for the local paddlers and frequent users who recreate on the river regularly. Moreover, electronic keys may not be the best solution for visitors seeking to paddle the river based on changing river conditions. The Licensee should evaluate other alternatives, including allowing paddlers to call ahead for gate access or keeping the gates unlocked during weekend daylight hours. These alternatives may provide greater whitewater recreation access to all paddlers (visitors, local users, and frequent visitors) recreating on the river. Consulting with American Whitewater, NPS, and other interested stakeholders will ensure that possible solutions benefit all users while also meeting the needs of the Licensee.</p>	See NSPW's response to AW Recommendation 4.
DOI 4		<p>DOI Recommendation 4. Provide Separate Staging Areas for Trailered and Hand-Carry Watercraft at Saxon Falls Boat Ramp.</p> <p><u>Rationale:</u> The Department supports the proposal to move the hand-carry boat access located on the shoreline near the Saxon Falls impoundment to the Project boat ramp. The move will combine hand-carry boat users with motorized boat users at the same site. The Department recommends using separate staging areas for each use type to accommodate this use. Using a single staging area/ramp for all types of watercraft, e.g., trailered and hand-carry, may cause issues and conflicts between the user groups. To minimize potential issues, there should be separate trailered and hand-carry watercraft staging areas. Each group requires different staging requirements, which take different amounts of time. An example of separate staging areas can be found at Greer Launch in Missouri.</p>	See NSPW's response to AW Recommendation 3.
DOI 5		<p>DOI Recommendation 5. Conduct Additional Consultation When Preparing and Implementing the Whitewater Recreation Plans.</p> <p>As stated in Section 3.8.3 in the FLA Revised Exhibit E:</p> <p>"NSPW is proposing to develop a Whitewater Recreation Plan in consultation with AW and NPS within one year of license issuance. The Plan will include specific information, including the exact weekend the flows should be released each year and the time of day each flow release should begin." A similar plan is specified in the license application for the Saxon Falls Project.</p> <p>NSPW proposes to develop the Gile Flowage Whitewater Recreation Plan in conjunction with the Saxon Falls Whitewater Recreation Plan.</p> <p>The Department supports the development of the Plans for both Projects and recommends the following:</p> <p>Gile Flowage and Saxon Whitewater Recreation Plans</p>	<p>See NSPW's response to AW Recommendation 5.</p> <p>NSPW supports including the MDNR and WDNR as consulting parties when developing the Saxon Falls plan and the WDNR when developing the Gile Flowage plan.</p> <p>NSPW would like to clarify that the exact weekend for the releases (one in June and one in September) will be established when the Whitewater Recreation Plan is developed. Once the schedule has been formalized, and approved by the Commission, these dates will remain unchanged from year-to-year unless there are extenuating circumstances (e.g., the release dates conflict with the schedule of another local/regional release).</p>

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		<ul style="list-style-type: none"> Consult with the FOG, as flow releases may impact their members' properties bordering the Gile Flowage reservoir and the properties of other individuals they keep informed. Consult and coordinate with AW, FOG, and the NPS annually to select the dates and coordinate announcements of the scheduled flow releases. Invite the Wisconsin DNR and Michigan DNR to participate as consultants in the Whitewater Recreation Plan or the annual flow release date selection. <p><u>Rationale:</u> The Department supports NSPW's recommendation to develop and consult with AW and the NPS on the Whitewater Recreation Plans for Gile Flowage and Saxon Falls. Including FOG in the development and consultation process brings potentially affected interested stakeholders to the discussion and will help build more balanced Whitewater Recreation Plans. This includes an annual meeting for NSPW, AW, FOG, and NPS to meet and select dates for flow releases, discuss potential whitewater recreation measures, and resolve any issues that may occur when developing and implementing the Whitewater Recreation Plans. An annual meeting will ensure time is set aside for planning and discussing the best days/times to schedule flow releases and the Whitewater Recreation Plan with interested stakeholders. With this information, interested stakeholders and NSPW can post information about the scheduled flow releases in advance so the public can plan ahead for whitewater boating. Furthermore, the Wisconsin DNR and Michigan DNR should be invited to participate as consultants since the DNRs may have an interest in the planning, development, and implementation of the scheduled dates Whitewater Recreation Plans and the flow release dates.</p>	
<p>DOI 6</p>	<p>DOI Comments 12/06/2024</p>	<p>DOI Recommendation 6. Project Operations</p> <p>The Department recommends operation of the project developments as run-of-river with no hydroelectric (hydro) peaking.</p> <p><u>Rationale:</u> Hydro peaking produces fluctuating water levels in the project tail water and reservoir, which adversely affect fish and other aquatic life. Under run-of-river operation, the reservoir, tail water, and downstream areas undergo changes similar to those occurring in an unimpounded river flowing under natural hydrological conditions, and the resulting habitats mimic those to which fish and other aquatic life have adapted. Reducing water level fluctuations also minimizes adverse impacts to wetland, shallow water, and shoreline habitats important to fish and wildlife resources.</p>	<p>Comment noted. NSPW has proposed to continue operating both Projects in a run-of-river mode.</p>
<p>DOI 7</p>	<p>DOI Comments 12/06/2024</p>	<p>DOI Recommendation 7. General Fish Protection</p> <p>The Licensee should install trash racks above the intake(s) of the powerhouse(s) to minimize fish entrainment and turbine mortality. The Department recommends using trash racks designed to safely manage velocities while small enough to minimize juvenile fish entrainment.</p> <p>The Licensee should maintain inflow velocities immediately upstream of the trash rack(s) to protect fish from impingement and entrapment.</p> <p><u>Rationale:</u> Numerous entrainment and turbine mortality studies conducted in Wisconsin and Michigan have shown that thousands of fish are entrained annually at hydro projects and that a portion of these fish entrained are killed by the turbines (FERC 1995). Further, study results show that mainly small fish (6 inches or less in length) pass through hydro projects on an annual basis.</p>	<p>As stated in Section 6.1.3.2 of Exhibit E of the FLA, the Saxon Falls Project has existing trashracks with one-inch clear spacing and an estimated intake velocity of 0.71 feet per second.</p> <p>As noted in Section 6.1.3.3 of Exhibit E of the FLA, the Superior Falls Project has existing trashracks with one-inch clear spacing and an estimated intake velocity of 0.83 feet per second.</p> <p>No additional fish protection measures have been proposed, nor are they warranted, because the DOI has not presented any further information to demonstrate there is a need for additional measures.</p>

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<p>DOI 8</p>	<p>DOI Comments 12/06/2024</p>	<p>DOI Recommendation 8. Operational Compliance Monitoring</p> <p>The Department recommends that the Licensee develop an Operational Compliance Plan for project operations. The Licensee should develop a plan to monitor compliance with project operations, employing mechanisms to accurately document inflow to and discharge from the developments in the project. Staff gauges should be used showing the reservoir operating bands stipulated in the license. Automatic water level recorders should be used to record headwater and tailrace elevations, and records of daily turbine operations, headwater and tailrace channel elevations, and flow releases in cubic feet per second through the powerhouses and spillways.</p> <p>The plan should be developed after consultation with the U.S. Fish and Wildlife Service (FWS).</p> <p><u>Rationale:</u> These recommendations are intended to demonstrate compliance with project operation requirements. Compliance at all times with run-of-river and other prescribed operating measures is necessary to provide suitable living conditions for fish and wildlife, and to protect the habitats upon which they depend (e.g., spawning areas).</p>	<p>In Section 5.9 of Exhibit E of the FLA, NSPW proposes to develop an operations monitoring plan for each Project to document how it will comply with operational requirements of the new license including reservoir elevation and minimum flow. The plan will include the following:</p> <ul style="list-style-type: none"> • Location of headwater monitoring probes/staff gages • Frequency of monitoring • Procedures for maintaining and calibrating monitoring equipment • Standard operating procedures to be implemented outside of normal operating conditions, such as scheduled or emergency facility shutdowns or maintenance activities • A schedule for installing and operating the monitoring equipment • An after-the-fact notification procedure for planned and unplanned deviations <p>NSPW supports consulting with EGLE, MDNR, WDNR, and USFWS when developing the plan.</p>
<p>DOI 9</p>	<p>DOI Comments 12/06/2024</p>	<p>DOI Recommendation 9. The Department recognizes the Montreal River as an important public waterway in Northwestern Wisconsin and Michigan that is critical to the biological and recreational resources of the area. Issues frequently come up throughout the term of a license, such as power outages, low flows, and unexpected emergencies that may pose a threat to fish and wildlife and recreation resources in the vicinity of the project. It is recommended that the Licensee consult on matters which may affect fish and wildlife and recreation resources, and work with Stakeholders. It is recommended that the Licensee consult with the FWS, Bureau of Indian Affairs, Tribes, and the Wisconsin and Michigan Department of Natural Resources on matters affecting fish and wildlife resources and National Park Service and WIDNR on recreational use throughout the term of the new license.</p>	<p>NSPW proposes to prepare several plans in consultation with the resource agencies including plans to manage drawdowns, low flows, recreational resources, invasive species, etc. Each plan will be developed in consultation with the appropriate resource agencies, allowing them the opportunity to develop protocols as necessary for consultation over the term of the pending licenses.</p> <p>The majority of changes proposed in the FLA's for the three projects are associated with recreation, including whitewater boating, recreation site improvement, and viewing of the waterfalls. Any concerns regarding changes needed to whitewater boating under the pending licenses can be addressed as part of the re-evaluation process previously discussed under AW comment 5 above. Any improvements needed for recreation facilities can be addressed by adding a requirement to re-evaluate recreation needs just prior to year 40 of the upcoming licenses.</p>
<p>EGLE 1</p>	<p>Michigan Department of Environment, Great Lakes, and Energy (EGLE) Comments 12/09/2024</p>	<p>EGLE Recommendation 1. Project Lands</p> <p>The licensee proposes to remove approximately 425 acres of land, combined, from the Saxon Falls and Superior Falls project boundaries.</p> <p><u>Recommendation:</u> EGLE recommends the FERC deny these requests to reduce project boundary area. Additionally, EGLE suggests development of a land management plan.</p> <p><u>Justification:</u> The current boundaries have natural land cover which act as a buffer for water quality, from human impacted activities. Removal from project boundaries removes this protection, and any development may render obsolete the water quality studies used to determine compliance with Michigan's Part 4 Water Quality Standards. Therefore, to maintain the conditions used during pre-licensing activities, EGLE recommends keeping the current project boundaries as they are and developing an updated land management plan in consultation with resource agencies, and Tribes to provide further protection of the natural resources.</p>	<p>In the FLA, NSPW proposes to retain all lands that are necessary for the safe and effective operation of the Projects, including those lands necessary for other project purposes. Those other project purposes include, but are not limited to, aesthetics, flowage rights, public recreation, shoreline management, and the protection of environmental resources, archaeological and historical resources, wetlands, and threatened and endangered species.</p> <p>The DOI's primary argument is that lands within the Project boundaries are necessary to provide a shoreline buffer zone and therefore should remain in the Project boundaries to ensure the same protections under the new license. None of the resource agencies have demonstrated that the lands proposed for removal are necessary for the continued safe and effective operation of the Projects. Since the Commission's authority extends only over Project lands, it cannot impose "alternative enforceable mechanisms" to control the use of those lands deemed unnecessary for the operation of the Projects.</p> <p>The DOI's recommendation disregards the process under the current license to develop or modify the Project boundary. Furthermore, they did not follow the same rigor to determine if the lands were necessary for Project purposes, nor did they employ the same accurate mapping process (i.e., LiDAR) used by the Licensee to develop the proposed Project boundary. The DOI also fails to acknowledge that NSPW proposes to retain certain upland areas within the Project that are necessary and desirable for the operation of the Project. Finally, they did not consider that local, state, and federal regulations, as well as certain agreements, will provide protections for the lands proposed for removal. A summary of the regulations and agreements that would provide protection for those lands proposed for removal from the Project boundaries is provided below.</p> <ul style="list-style-type: none"> • <u>Aesthetics</u> NSPW proposes to retain those lands within the current Project boundary downstream of each Project dam to provide aesthetic buffers for the Saxon Falls Waterfall, Montreal River Canyon, and the Superior Falls Waterfall.

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			<ul style="list-style-type: none"> • Recreation Use Agreements NSPW maintains an agreement with the Gogebic Range Trail Authority and the Sno-Drifters Club allowing use and maintenance of Gogebic County, Michigan snowmobile trail 160. This trail is partially located on NSPW lands within the current Superior Falls Project boundary. These agreements were included in NSPW's January 2024 AIR response (FERC Accession No. 20240105-5183). The removal of these lands from the Project boundary will have no impact on their management or their use as a snowmobile trail. There is also a snowmobile trail located in Iron County, WI within the existing Superior Falls Project boundary. This trail does not currently have a recreation agreement, however, NSPW may pursue one to formally authorize its continued use. Regardless, NSPW has no intentions to restrict public access to the trail. NSPW also has a perpetual easement for the road across Gogebic County lands that provides access to the Superior Falls Powerhouse. This easement was included in NSPW's January 2024 AIR response. There are no recreation use agreements at the Saxon Falls Project as there are no designated snowmobile or multi-use trails. NSPW owns all lands necessary to access the Project's recreational facilities. • Upstream Limit of the Project Boundaries Current mapping technology and terrain information has allowed NSPW to accurately establish the upstream boundary of the reservoirs. In the case of Saxon Falls Flowage, the reservoir now extends significantly further upstream than what was previously mapped using the older technology. • Other Federal State and Local Regulations Providing Protections for Lands Removed from Project Lands proposed for removal from the Project boundary will remain subject to local, state, and federal regulations. EGLE fails to recognize the protections these regulations provide to all lands, regardless of whether they are located within the Project boundary. A description of applicable regulations is provided below. <ul style="list-style-type: none"> ➤ Michigan Soil Erosion and Sediment Control (SESC) Part 91 Regulations A permit is required from the Gogebic County Conservation District for ground disturbing activities that are located within 500 feet of a lake or stream and for all ground disturbing activities that involve over 1.0 acre of disturbance, regardless of distance from a lake or stream. If ground disturbing activities exceed 5.0 acres a Notice of Intent must also be submitted to EGLE in addition to the County Part 91 permit. In order to obtain a Part 91 permit, applicants must develop a site-specific SESC plan which includes all proposed temporary and permanent SESC control measures to prevent movement of sediment offsite. ➤ Michigan Inland Lakes and Streams Part 301 Regulations Part 301 requires permits from EGLE for certain construction activities on inland lakes and streams. The regulations oversee the following activities: <ul style="list-style-type: none"> ○ Dredging ○ Filling, construction, or placement of a structure on bottomlands. ○ Constructing or reconfiguring a marina. ○ Interfering with the natural flow of water or connecting a ditch or a canal to an inland lake or stream. ➤ Michigan Wetland Protections, Part 303 State Regulations and Section 404 Federal Regulations Wetlands are regulated under this rule if connected to one of the great lakes; are connected to an inland lake, pond, river, or stream; or are located within 500 feet of an inland lake, pond, river, or stream. The following activities require a permit from EGLE before beginning the activity: <ul style="list-style-type: none"> ○ Depositing or placing fill material in a wetland. ○ Dredge, remove, or permit removal of soil or minerals from a wetland. ○ Construct, operate, or maintain any use or development in a wetland. ○ Drain surface water from a wetland.
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Saxon Falls and Superior Falls License Recommendations and NSPW Responses

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Saxon Falls and Superior Falls License Recommendations and NSPW Responses

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<p>EGLE 2</p>	<p>EGLE Comments 12/09/2024</p>	<p>EGLE Recommendation 2. Compliance Monitoring. <u>Recommendation:</u> EGLE recommends the licensee fund a USGS Gauge upstream of the Saxon Falls project impoundment or provide a similar quality upstream flow gauging site with remotely accessible data updated in real-time. Calculated flows out of each project should be made available with similar quality and frequency.</p>	<p>NSPW maintains hourly records of Project operations, including reservoir elevation, turbine output, and calculated flow through each Project. This information can be provided in electronic format to resource agencies and the Commission upon request. This information allows resource agencies and the Commission to verify compliance with the operational requirements of the license. Installation of USGS gages on the Montreal River is unnecessary because the proposed Operations and Compliance Monitoring Plan already includes provisions to demonstrate compliance. Furthermore, recording inflows via a USGS gage is not</p>

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		<p><u>Justification:</u> The purpose of this gauge would be to measure incoming flows and allow for better compliance with run-of-river operation in combination with headpond level and gate operations. This will also benefit water quality monitoring by providing flow context upstream and downstream for data interpretation. Additionally, remote access to the data will be helpful for operators, resource agencies, and members of the public who are interested in the proposed flow releases for aesthetic and recreational flows.</p>	<p>necessary to determine run-of-river operation. Indeed, monitoring of the reservoir elevation, as is currently being implemented by NSPW at its White River Project (P-2444), is the most practical means of determining run-of-river compliance.</p>
<p>EGLE 3</p>	<p>EGLE Comments 12/09/2024</p>	<p>EGLE Recommendation 3. License Term.</p> <p>The licensee proposes a 50-year license term to match the 49-year, and 5-month license requested at the Gile Flowage project.</p> <p><u>Recommendation:</u> EGLE recommends FERC issue a 30-year license to both Saxon Falls and Superior Falls projects.</p> <p><u>Justification:</u> A 30-year license term reflects the investments and updates completed for the relicensing process above and beyond operations and maintenance costs. Additionally, the Water Quality Certification (WQC) conditions are developed based on the pre-license conditions. As the climate changes, the project may not meet the conditions set forth in the WQC, and this reduces the effectiveness of the WQC. This is especially apparent in another Michigan hydroelectric project (P-3516) where standards were met during relicensing, but now do not comply within the summer months almost 100% of the time. Shorter license terms allow the states to protect water quality and meet state standards by offering the opportunity to deny a WQC where appropriate.</p>	<p>See NSPW's response to AW Recommendation 10.</p> <p>40 CFR § 121.10 (a) states: "Provided that the Federal agency and the certifying authority agree in writing that the certifying authority may modify a grant of certification (with or without conditions), the certifying authority may modify only the agreed-upon portions of the certification." Therefore, there already exists a provision to modify the issued WQC to accommodate the changes recommended by EGLE without limiting the license term to 30 years. In addition, under the Commission's guidance (Policy Statement on Establishing License Terms for Hydroelectric Projects, 161 FERC ¶ 61,078 (2017); 82 Fed. Reg. 49,501 (Oct. 26, 2017) the default license term was increased to 40 years. EGLE has provided no evidence to support the issuance of a license term for less than 40 years.</p>
<p>EGLE 4</p>	<p>EGLE Comments 12/09/2024</p>	<p>EGLE Recommendation 4. Drawdown Plan.</p> <p><u>Recommendation:</u> We recommend FERC require a drawdown plan which includes measures for avoiding occurrences, minimizing impacts, and mitigation for inevitable impacts. This drawdown plan should be completed in consultation with the MDNR.</p> <p><u>Justification:</u> Drawdowns degrade impoundment and downstream water quality, through disturbances of the natural hydrograph, sediment releases, and exposure of normally wetted perimeter. This can cause damage to aquatic life and risk impairments to the designated uses R 323.1100, (coldwater fisheries, warmwater fisheries, and other Indigenous and aquatic life and wildlife) via habitat degradation or loss of life. Preventing these occurrences proactively, such as using a diving inspection rather than lowering impoundment levels will help protect water quality and designated uses.</p> <p>Activities which minimize impacts of a drawdown, such as reducing the magnitude, duration and rate of drawdown/refill will help during times when a drawdown is unavoidable. Mitigation for environmental impacts should be done to help the balance between environmental damage and generation. This can be accomplished through organism stranding and re-location efforts, which can prevent the loss of aquatic life.</p>	<p>Although routine drawdowns are not conducted at either Project, it is likely that during the term of the license a drawdown will be necessary for project maintenance/construction or an emergency situation.</p> <p>NSPW supports the development of a drawdown plan for emergencies and to complete maintenance or construction activities that are less than three weeks in duration (i.e., planned drawdowns). These types of events do not typically require prior FERC approval. The plan will be developed in consultation with EGLE, MDNR, USFWS, and WDNR and include the following:</p> <ul style="list-style-type: none"> • Maximum drawdown and refill rates implemented during any planned drawdown. • Description of circumstances that would necessitate an emergency drawdown. • Description of circumstances that would necessitate a planned (non-emergency) drawdown of less than 3 weeks in duration. • A plan to address stranding, removal, and disposition of stranded organisms (e.g., fish, mussels, etc.). • A provision to schedule non-emergency drawdowns during periods that minimize adverse effects on species in the Project reservoir with sensitive life stages (e.g., fish spawning season), if possible. • Provision to notify EGLE, MDNR, USFWS, and WDNR at least 90 days before the start of any planned drawdown. • Provision to report any emergency drawdowns to the Commission, EGLE, MDNR, USFWS, and WDNR within 24 hours of the emergency. <p>Planned drawdowns exceeding three weeks in duration require a temporary license amendment and prior Commission review and approval. Since the details of these types of drawdowns are specific to the work being conducted, it is impossible to address potential impacts in a general plan. NSPW proposes that for these types of drawdowns a project specific drawdown plan be developed in consultation with EGLE, MDNR, USFWS, and WDNR and include the following provisions:</p> <ul style="list-style-type: none"> • A plan to provide notification to the public prior to implementation of the drawdown. • Description of circumstances requiring the planned drawdown. • Identification of the maximum drawdown depth and drawdown and refill rates. • A plan to address stranding, removal, and disposition of stranded organisms (e.g., fish, mussels, etc.). • A provision to schedule non-emergency drawdowns during periods that minimize adverse effects on species in the Project reservoir with sensitive life stages (e.g., fish spawning season), if possible.

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			<ul style="list-style-type: none"> • Provide a draft drawdown plan to EGLE, MDNR, USFWS, and WDNR for comment at least 120 days prior to the planned drawdown and at least 30 days prior to submittal of the plan to the Commission for review and approval. • Address agency comments in the final drawdown plan. • Submit the final drawdown plan to the Commission at least 90 days prior to the planned drawdown.
EGLE 5	EGLE Comments 12/09/2024	<p>EGLE Recommendation 5. Financial Assurances.</p> <p>No financial assurances have been proposed.</p> <p><u>Recommendation:</u> EGLE recommends a requirement for financial assurances for project maintenance, operations, eventual retirement, and restoration, and including funds immediately available for environmental emergencies caused by the project's existence (i.e., sediment releases, flooding damage, etc.).</p> <p><u>Justification:</u> This purpose of this recommendation is to ensure that water quality standards will be met regardless of storms, unplanned drawdowns, and other project impacts. Likewise, this protects water quality no matter the owner of the project and associated FERC license.</p>	<p>NSPW is a regulated utility with adequate financial resources to maintain the Projects over the term of the pending licenses. Section I of Exhibit H of the FLA for Superior Falls states the following:</p> <p><i>"NSPW resources are adequate to meet the needs of the hydro department. NSPW has a consistent record of satisfactory performance with respect to reliability, price competitiveness, and safety. NSPW maintains a staff of more than 60 individuals with expertise in engineering, maintenance, electric system operations, mapping, and planning. Hydro department personnel conduct routine training and have adopted standardized maintenance practices for all NSPW hydro facilities."</i></p>
EGLE 6	EGLE Comments 12/09/2024	<p>EGLE Recommendation 6. Additional Comments.</p> <p><u>Recommendation:</u> EGLE recommends the National Environmental Policy Act document (NEPA document) be completed together for all three interconnected hydroelectric projects (Saxon Falls, Superior Falls, and Gile Flowage).</p> <p><u>Justification:</u> A holistic NEPA document will better account for cumulative impacts and interstate water quality conveyances with differing water quality standards.</p>	<p>See NSPW's response to AW Recommendation 1.</p>
EGLE 7	EGLE Comments 12/09/2024	<p>EGLE Recommendation 7.</p> <p>We appreciate the opportunity to submit recommendations for the relicensing of the Saxon Falls and Superior Falls Hydroelectric Projects. Additionally, EGLE supports the recommendations and comments made by the Michigan Hydro Relicensing Coalition and the MDNR.</p>	<p>Comment noted.</p>
FOG 1	Friends of the Gile (FOG) Comments 12/09/2024	<p>FOG Recommendation 1. Develop a Coordinated Single Environmental Review Document for all Three Projects.</p> <p>The West Branch of the Montreal River is an interconnected, interdependent waterway made more so due to the flow-dependency water releases from the Gile Flowage required for downstream power generation at the Saxon and Superior Falls project sites, and the impacts of those flow releases on water recreation, ecosystems, and public safety upstream on the Gile Flowage. The hydrology and project operations of all three project sites are connected and dependent on each other.</p> <p><u>Rationale for Single Project Environmental Review</u> FOG recommends a single project environmental review to promote a comprehensive analysis and evaluation of all three Projects (Superior Falls Project, Project No. 2587), Saxon Falls Project, Project No. 2610), and Gile Flowage Storage Reservoir Project, Project No. 15055) as part of an inter-related whole system and allow for license decisions that would provide adequate protection, mitigation, and enhancement of fish and wildlife habitat, natural resource conservation, and public uses.</p> <p>If FERC issues separate licenses for each of the three projects, we recommend that an integrated management plan be developed by the Applicant in consultation with project stakeholders.</p>	<p>See NSPW's response to AW Recommendations 1 and 8.</p>

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FOG 2	FOG Comments 12/09/2024	<p>FOG Recommendation 2. Develop a Gile Flowage Whitewater Kayak Plan in Conjunction with the Saxon Falls Whitewater Kayak Plan.</p> <p>We support opportunities for whitewater kayaking downstream from the Gile Dam as a new outdoor recreation opportunity for Iron County residents and visitors. Because water releases for whitewater kayaking have not been experienced by Flowage property owners or users before, there is significant concern about how the amount and timing of these water releases will affect the ability to access docks, boat landings, and impact shoreline erosion and fish and wildlife habitats.</p>	See NSPW's response to AW Recommendation 4.
FOG 3	FOG Comments 12/09/2024	<p>FOG Recommendation 3. Provide local consultation and coordination when preparing and implementing Whitewater Recreations Plans and providing public information.</p> <p>The Applicant is proposing to develop a Whitewater Recreation Plan in consultation with American Whitewater (AW) and the National Park Service (NPS). Local consultation with FOG, Gile Flowage stakeholders, Tribes, and users who will be directly impacted by the water releases was not included. Iron County, as a major Gile Flowage landowner and boat landing administrator, must be included in any Gile Flowage whitewater planning due to potential impacts on Flowage recreation, accessibility, and habitats.</p> <p><u>Rationale for local consultation and coordination:</u> FOG recommends the Applicant develop a Gile Flowage Whitewater Recreation Plan that includes annual consultation and coordination with FOG, Flowage landowners (private, municipal, and Iron County) and Tribes on the amount, dates, and timing of white water releases and provides for coordinated public information outreach by the Applicant, FOG, NPS, and AW to alert public, Flowage property owners, and users in advance of whitewater water releases.</p>	See NSPW's response to AW Recommendation 4.
FOG 4	FOG Comments 12/09/2024	<p>FOG Recommendation 4. Develop Public Outreach on Flowage Lake Level and Discharge to West Branch of the Montreal River.</p> <p>The West Branch of the Montreal River under high water levels is a "high-hazard Class V river with dams, rapids, and inaccessible canyon-like areas" (Iron County Economic Development, 2024). Under low water levels when there is not sufficient discharge from the Gile Flowage, the river is not navigable in many areas.</p> <p>We are not aware of any easily accessible public information provided on Gile Flowage discharge into the West Branch of the Montreal River or water level information that could provide kayakers with critical water safety information.</p> <p><u>Rationale for Flowage Level and Water Discharge Public Outreach</u> Providing the public with real time information on the status of flow into the West Branch of the Montreal River and Gile Flowage Lake levels can improve user safety, accessibility, and experience. It also will help dispel misinformation about the impact or timing of these releases for Gile Flowage users. Posting this information on a website that is updated regularly, easily accessible to the public is necessary, and can be shared or linked to other websites would ensure broader outreach of this recreational information and improve water recreational users' experiences.</p> <p>FOG recommends the Applicant consult with FOG, AW, NPS, Wisconsin Department of Natural Resources, Iron County, and local recreational users to fund development or enhancement of existing websites to outreach this information and provide responsibility for administration.</p> <p>We also recommend that the Applicant work with FOG and Iron County post this website information at Gile Flowage boat landings and on FOG and County public recreational outreach materials.</p>	See NSPW's responses to AW Recommendation 4 and AW Recommendation 6.

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<p>FOG 5</p>	<p>FOG Comments 12/09/2024</p>	<p>FOG Recommendation 5. Install Warning Signage at Tailwater Kayak Landing Access Site</p> <p>The project plan calls for inclusion of the hand-carry take-out on the reservoir shoreline at the east earthen embankments that form the dam as well as a hand carry boat put-in site located on the east shore of the West Fork of the Montreal River, immediately downstream of the project dam. We agree with American Whitewater’s concern that this landing must be adequately signed to alert users that the West Branch of the Montreal River downstream from the Gile Dam is only safe for specialized watercraft, especially in high water conditions.</p> <p><u>Rationale for Installing Warning Signage at Whitewater Kayak Landing Access Site.</u> The current “Canoe Portage” sign installed at the Gile Dam is misleading and could encourage canoers or flatwater kayaks paddling on the Gile Flowage to portage over the dam to access the river. In the past, no one portaged over the Gile Dam. However now there is a “canoe portage” sign that “advertises” this opportunity and may create a hazardous situation for inexperienced or unprepared Flowage flatwater paddlers who believe they can portage over the dam for additional downstream paddling experiences. Gile Falls is less than 1/4-mile downstream from the Gile Dam is significant safety hazard.</p> <p>We support the American Whitewater’s recommendation that it is inappropriate, and potentially dangerous, to refer to these facilities as a “portage” and safety signage should make it clear that water conditions below the dam are suitable only for specialize watercraft and experienced users. We recommend that the American Whitewater be consulted on proper safety and signage protocols.</p> <p>This recommendation applies to the Gile Flowage Storage Reservoir Project (P-15055) and Saxon Falls (P-2610).</p>	<p>NSPW is not opposed to installing signage at the Canoe Portage Put-in site below the Gile Dam and the Tailwater Access/Canoe Portage Put-in Site below the Saxon Falls waterfall warning of the downstream hazards. This effort would be undertaken in consultation with AW.</p> <p>NSPW has proposed to relocate and improve the canoe portage site to facilitate use for those who wish to continue boating downstream or participate in the proposed whitewater flow releases.</p>
<p>MDNR 1</p>	<p>Michigan Department of Natural Resources (MDNR) Comments 12/09/2024</p>	<p>MDNR Recommendation 1. MDNR supports license provisions requiring Run-of-River operations at Saxon Falls and Superior Falls.</p> <p><u>Justification:</u> Run-of-River operations are consistent with the conservation, protection and management of the state’s natural resources because run-of-river operations can help reduce negative impacts of hydropower facilities on aquatic habitat by reducing scour, erosion, and sedimentation associated with sudden pulses of flows, as well as unnatural periods of high or low water levels associated with a more artificial hydrograph. While impoundments pose impacts associated with their physical configuration, providing inflows which match outflows allows for maintaining more natural conditions downstream including channel forming flows (in alluvial reaches), and supporting the seasonal variations to which local organisms are adapted.</p>	<p>Comment noted. NSPW has proposed to continue operating both Projects in a run-of-river mode.</p>
<p>MDNR 2</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 2. Require drawdown avoidance, minimization, mitigation, and planning.</p> <p>MDNR supports explicit license provisions to avoid and manage impacts from potential project drawdowns for maintenance, inspections, emergency conditions, or other purposes. We recommend further limitations on drawdowns and recommend that FERC require the Licensee to avoid, minimize, and mitigate for drawdowns particularly pertaining to sedimentation and stranded organisms.</p> <p>For example: Licensee will avoid drawdowns. When drawdowns are necessary, Licensee will seek to minimize the duration, rate, and extent of drawdown, avoid sensitive time windows such as winter and spawning seasons, and provide mitigation, which at minimum will include stranded organism survey and relocation efforts, and prevention and management of excessive erosion and sedimentation. Use of alternatives’ will be prioritized over dewatering the impoundments.</p> <p>Drawdowns will not occur between September 15 and June 1. Departures from this framework require consultation with MDNR.</p>	<p>See NSPW’s response to EGLE Recommendation 4 regarding development of a drawdown plan.</p>

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		<p><u>Justification:</u> Drawdowns can be highly destructive to aquatic habitats and organisms. Cold-season drawdowns can be especially damaging to herpetofauna and freshwater mussels. Allowing drawdowns to extend after the herpetofauna become dormant will increase stress and mortality of these organisms. Allowing drawdowns without requiring avoidance is inadequate to protect aquatic habitats and organisms from disturbance and destruction. While stranded organism survey and relocation efforts are essential to reducing risk when a drawdown occurs, avoiding drawdowns or using coffer dams is far more protective and effective.</p> <p>Michigan has seen damage from sedimentation and degradation of aquatic resources resulting from frequent, untimely, and extensive drawdowns. Having no details and rather relying on provisions in a yet to be developed operation compliance monitoring plan terms increases probability that any drawdown plan will be inefficient and inadequate. A plan does not itself provide mitigation, commitments within a plan do, and NSPW has not provided assurance or clear commitments that its activities will not cause undue stress and mortality to sensitive and rare species.</p> <p>While emergency conditions may prevent some measures from being implemented during the emergency, both planning to avoid such emergencies, and after-the-fact mitigation are expected of entities whose activities affect natural resources. Maintenance, monitoring, project phasing and investments can all help reduce the likelihood of emergency conditions developing.</p> <p>Further discussion: If FERC wishes to employ a project specific approach involving a drawdown plan for a discrete project or activity, the MDNR expects at minimum any plan will describe the Licensee's avoidance, minimization, and mitigation and will include a commitment to provide appropriate efforts (stranding and relocation, managing sediment) and consult with MDNR. In addition, refill procedures must include protective minimum flows downstream. FERC should require the Licensee to obtain permits (including from Michigan Department of Environment, Great Lakes, and Energy (EGLE) Water Resources Division) for its activities.</p> <p>In the summary in the REA notice, the provisions are described as "limit impoundment drawdowns for maintenance and repair to the period of June 1 through December 31, and limit the rate of any such drawdowns to a maximum of 1 foot per 24 hours for the first 2 feet and 0.5 foot per 24 hours thereafter" (Saxon Falls) and "(2) develop an operation compliance monitoring plan" (Superior Falls). By including explicit expectations for stranded organism survey and relocation efforts in connection with drawdown activities, Staff can more clearly describe the environmental effects of the project on aquatic resources and incorporate necessary license conditions to protect them.</p> <p>The drawdown window proposed for Saxon Falls of June 1 through December 31 should be limited to beginning after June 1 and refill being completed by September 15 unless otherwise agreed to by resource agencies or supported by state permit conditions. The proposed window of June through December at Saxon Falls extends too far into the fall to be adequately protective of herpetofauna and freshwater mussels, which typically begin staging for cold weather in the fall season.</p>	
<p>MDNR 3</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 3. Maintain Headwater elevations and install monitoring with benchmarks.</p> <p>MDNR supports the proposal to maintain specified headwater elevations and reduce dramatic or daily reservoir fluctuations. MDNR recommends FERC require automatic headwater monitoring equipment and a visible calibrated staff gage, and report discharge rating curves.</p> <p>We also recommend that the license documents include an approximate longitudinal profile from the headwaters to Lake Superior.</p>	<p>NSPW already has headwater monitoring equipment and staff gages visible to the public at both Projects. The Projects are operated in a run-of-river mode whereby discharge measured immediately downstream of each Project's tailrace approximates the sum of inflows into each Project reservoir. NSPW has proposed to continue operating both Projects in the same manner. Therefore, there are no "dramatic" or significant daily reservoir fluctuations at either Project.</p> <p>NSPW has proposed to develop an operations compliance plan. See NSPW's response to DOI Recommendation 8 for details regarding said plan. The plan will discuss how NSPW will comply with the operational parameters required under each license.</p>

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		<p><u>Justification:</u> Installation and maintenance of automated headwater level recording equipment which would be made available in real time would allow for tracking and confirming project operations, corroborating downstream flows, and consulting during low-water years, flooding and peak flows and other conditions over the license term. FERC has been thorough in its Additional Information Requests; however, it is sometimes hard to follow how the elements of the project facilities interact. For example, having a longitudinal profile from headwaters through Saxon Falls and Superior Falls to Lake Superior, and the relative elevations of intakes, sills and tailrace would be useful for project compliance and for understanding conditions which may occur over the course of the license for which consultation may be warranted. Understanding how the Superior Falls project tailrace relates to the elevation of Lake Superior is important to understand the distance at which backwatering occurs or would occur indexed to potential future lake elevations. NSPW seemed to indicate that its Aquatic and Terrestrial Invasive Species (ATIS) study provided sufficient bathymetry to satisfy MDNR's request in the Draft License Application, but the points surveyed did not cover all relevant project areas and did not document the thalweg.</p> <p>A longitudinal profile including relevant benchmarks such as typical headwater level, spillway, intake, sill, and tailrace elevations as well as a reference to Lake Superior which can be indexed to fluctuations in the future would allow for better understanding of tailrace dynamics particularly under likely changing future conditions during licensing. For example, if Lake Superior water levels change, that influences the likelihood of backwatering of the tailrace at Superior Falls.</p>	<p>Details regarding elevations of intakes, sills, and tailraces are included in Exhibit A of the FLA and drawings illustrating the structures are included in Exhibit F.</p> <p>MDNR has not provided any information to justify the need to develop a longitudinal profile from the headwaters of the Montreal River to Lake Superior. Furthermore, MDNR fails to explain how such a profile could be useful for Project compliance.</p> <p>MDNR also mentions a need to be able to index fluctuations in Lake Superior water elevations to better understand tailrace dynamics. Understanding the tailrace dynamics will have no bearing on the operation of the Project. Indeed, the project has operated for over 100-years under constant changes in the elevation of Lake Superior and therefore constant changes in backwatering of the tailrace.</p>
<p>MDNR 4</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 4. Require Fish Protection measures.</p> <p>MDNR recommends that the Licensee maintain trash racks to minimize fish entrainment and turbine mortality. Average normal inflow velocities immediately upstream of the trash rack(s) of the powerhouse(s) should be maintained so they are no greater than two feet per second to protect fish from impingement and entrainment.</p> <p>Justification: Entrainment and mortality studies in Michigan and Wisconsin have shown that entrainment can be a significant source of mortality.</p>	<p>See NSPW's response to DOI Recommendation 7.</p>
<p>MDNR 5</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 5. Require an Operation and Compliance Monitoring Plan. MDNR requests that FERC require an operation compliance monitoring plan for both projects, with minimum elements including:</p> <ul style="list-style-type: none"> • USGS quality instantaneous flow data capturing inflows from the West Fork of the Montreal River, as well as the Montreal River downstream of Saxon Falls. • Monitoring and instantaneous reporting for headwater elevations across projects, automatic level recorders in reservoirs and specified locations of headwater monitoring gages. • Frequency of monitoring • Recording and reporting operations parameters including flows through units, opening of gates, project shutdowns, etc. • Maximum and minimum flows that can be safely passed through units and penstocks (cfs) • Drawdown management; minimum provisions for avoidance, minimization, and mitigation (as described elsewhere in these comments) • Staff gages visible to public (if needed, a proxy location can be used from a publicly accessible area) • Standard operating procedures for facility shutdown or maintenance • Ramping procedures for reestablishing flows and restoring flows after departures from Run-of-River • Calibration standards and rating curves should be specified and periodically updated for equipment and structures (spillways, gates, gages etc.) 	<p>See NSPW's response to DOI Recommendation 8 regarding the Operation Monitoring Plan.</p> <p>See NSPW's response to EGLE Recommendation 2 regarding the need for new USGS gaging stations.</p>

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		<ul style="list-style-type: none"> • Reporting and notification: when a minimum flow, water quality, reservoir elevation or other deviation occurs, Licensee must notify the resource agencies and FERC and provide: Location and type of deviation, time, magnitude, duration, response, environmental impacts, suspected and confirmed cause (when available), remedial commitments. • Minimum flows, aesthetic and scenic flows, bypassed reach flows⁹ • Recreational flows and scheduled releases Ice management • Planned maintenance, redundancy, and alarms <p><u>Justification:</u> Northern States Power Company- Wisconsin (Licensee, NSPW) has provided limited detail for operations at each project, some description of drawdown provisions at Saxon Falls, and while NSPW offers to develop an operation compliance monitoring plan for Saxon Falls and Superior Falls, the provisions of its proposal are limited in detail and substance. MDNR regards including commitment to providing USGS gage data, minimum standards for drawdown plan, and run-of-river compliance as critical elements of an operation compliance monitoring plan.</p> <p>It is essential that a licensee be able to demonstrate compliance with all operational requirements of a project. Compliance with the proposed run-of-river operation and proposed minimum flow releases could be achieved through the development and implementation of an over-arching operation compliance monitoring plan. This plan must detail how the Licensee plans to monitor compliance with the operational requirements of any license that may be issued. This plan would also detail how the Licensee would notify FERC and resource agencies of any non-compliance events.</p> <p>Alteration of minimum flows could affect water temperatures, fish habitat, and wetlands downstream of the dams. Deviations from headwater elevations can affect wetlands and aquatic habitats and contribute to erosion and stress and mortality events for aquatic organisms upstream of dams (and where those deviations coincide with rapid fluctuations in downstream flows, can also cause aquatic organism stranding and erosion downstream).</p>	
<p>MDNR 6</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 6. Require USGS quality continuously recorded and real-time reported flow data.</p> <p>MDNR requests that FERC require the licensee to provide USGS-quality continuous data with a platform for real time reporting, which allows data search and report development and comparison to nearby gages. USGS has a proven track record of reliably providing these services. Many licensees provide data in partnership with USGS, where USGS is responsible for setting up and maintaining the gage and assuring data quality with compensation from the Licensee. Licensees contracting with USGS is MDNR's preferred approach. If NSPW wishes to additionally maintain or clone live data to another service in addition to supporting a USGS gage to capture flows at the projects, that would also be encouraged.</p> <p><u>Justification:</u> None of the licensee provided websites we interact with in Michigan provide the functionality that USGS does. The quality of data collection and professional standards maintained by USGS have not been duplicated by any licensee. Licensee websites such as those provided by Wisconsin Electric and UPPCO include current data, but do not allow for comparisons going back years or direct comparisons to other gages in the region, which is critical for understanding how local conditions are influencing project operations.</p>	<p>See NSPW's response to EGLE Recommendation 2.</p>
<p>MDNR 7a</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 7a. The final NEPA document must summarize and incorporate the Michigan EGLE 401 Water Quality Certification conditions and commit the licensee to adhering to the conditions as part of any license.</p> <p><u>Justification:</u> Although Water Quality Certification (WQC) conditions are mandatory, and we anticipate NSPW applying for a WQC for the project, we understand that FERC must weigh these benefits and doing so will be aided by inclusion in the NEPA document. Further,</p>	<p>Since both Projects have discharges in the states of Michigan and Wisconsin, NSPW has applied for WQC from both states for each Project. FERC will include WQC conditions from both states in each Project License. If there is conflict between the two states WQC conditions, it is assumed that the Commission will require the appropriate condition based upon the location of the discharge.</p>

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		committing to including Michigan’s WQC conditions is important to MDNR because we believe that Michigan EGLE has the clearest and most relevant authority for Saxon Falls and Superior Falls.	
MDNR 7b	MDNR Comments 12/09/2024	MDNR Recommendation 7b. Additional notes on water quality on state border EGLE is the Certifying Authority for water quality certification at Saxon Falls and Superior Falls. While Michigan and Wisconsin may work to reconcile differences, MDNR recommends that the staff alternative incorporate the more protective of any Water Quality Certification and preferentially include EGLE conditions or seek clarification from EGLE in cases of ambiguity because the powerhouse flows occur in Michigan.	See NSPW’s response to MDNR Recommendation 7a.
MDNR 7c	MDNR Comments 12/09/2024	MDNR Recommendation 7c. In addition, while Gile is in Wisconsin, FERC has recognized that the project operations influence downstream projects and resources, so ensuring that operations support the protection and conservation of aquatic resources downstream should be part of the FERC staff recommendations.	Gile Flowage is located entirely within the state of Wisconsin and is therefore subject only to water standards set forth by the State of Wisconsin. The Gile Flowage will also receive a license separate from Saxon Falls and Superior Falls. The Gile Flowage is approximately 8 miles upstream of the West Fork’s confluence with the main branch of the Montreal River, and approximately 20 miles upstream of the Saxon Falls Dam. Water quality monitoring studies conducted in association with the Gile licensing proceeding indicated that water quality within the Project reservoir and tailrace met all state water quality standards. Regarding the Gile Flowage, the Commission indicated in Section 4.1.2 of SD2 (Accession No. 20210401-3047) that it would evaluate the effects of Project operation on water quality in the Project reservoir and tailrace. During this evaluation, the Commission will determine the need for any protection, mitigation, or environmental measures necessary to protect aquatic resources within the Project reservoir and the West Fork downstream of the Project dam.
MDNR 8	MDNR Comments 12/09/2024	MDNR Recommendation 8. Require the development of a land management plan including consultation with resource agencies, and provisions to maintain and protect aquatic and terrestrial habitats as part of the project. <u>Justification:</u> The land management plan provides a method to ensure that species and their habitats are adequately considered by Licensee activities at the project. The meetings to discuss land management are useful for coordinating and consulting on efforts for the protection and management of rare and sensitive species, and invasive species. The Land Management Plan meetings would be an appropriate opportunity to share new rare and sensitive species listing information (including potentially delisting and uplisting), presence/absence information, and other changes relevant to operations at the project throughout the term of the license. <u>Explanation:</u> A dedicated land management plan supports natural resources values that are a relevant project purpose. FERC’s balancing of interests at projects includes consideration of factors influenced by land management activities from protective buffers to timber harvest and protective requirements for sensitive species. Annual Land Management Meetings are often the venue where resource agencies have an opportunity to discuss land management activities in the context of changes over the course of the license term, for example, recent changes in the state and federal status of bat and turtle species, and ongoing developments in conservation priorities. MDNR does not agree with the licensee’s statement that “land and wildlife management are not considered Project purposes.” MDNR believes that natural resource values associated with a project should be part of the project purpose.	See NSPW’s response to EGLE Recommendation 1 regarding development of a Land Management Plan. See NSPW’s response to MDNR Recommendation 11 regarding development of an Invasive Species Plan. The environmental review regarding the operation of the Projects did not show adverse effects to land and wildlife resources such that the development of a land management plan is necessary.
MDNR 9	MDNR Comments 12/09/2024	MDNR Recommendation 9. Include a license provision for rare and sensitive species protections to include plans for conserving and protecting freshwater mussels, and provisions for avian predators and migratory birds, herpetofauna, bats and bat roosting areas in coordination with other recommended plans and in consultation with resource agencies including USFWS. Example elements of a plan for freshwater mussels (unionids): Native freshwater mussels, including Unionids are afforded protections in Michigan.	The license applications did not propose any “construction and repair projects (such as spillway inspections, penstock footing replacements and wingwall repairs).” Therefore, a unionid conservation and protection plan as requested by the MDNR is unnecessary. See also NSPW’s response to EGLE Recommendation 4 regarding development of a drawdown plan. Any in-water work conducted in the future which does not require a reservoir drawdown will still require state and/or federal permits. The permitting process will afford the agencies the opportunity to require appropriate measures to minimize adverse impacts to protected species. A drawdown plan, if necessary, and state and/or federal permitting will address agency concerns regarding potential impacts to mussel species.

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		<p>Develop within 1 year of license issuance a unionid conservation and protection plan that includes measures such as survey and relocation efforts for construction and repair projects (such as spillway inspections, penstock footing replacements and wingwall repairs) and tie into drawdown plan and consultation (e.g., regarding alternatives, timing, refill). Appropriate staff and resources must be provided by the licensee. Obtain all state permits.</p> <p><u>Justification:</u> The operations and existence of Saxon Falls and Superior Falls negatively affect native freshwater mussel populations and other sensitive aquatic species. As identified in the requested studies, endangered mussels are present. MDNR's goals include conservation of self-sustaining, naturally reproducing populations of native species, including native freshwater mussels. Dam operations have significant potential to disrupt or damage mussel life history and habitats.</p> <p>In its response to comments about protecting mussels in the Draft License Application (DLA) in 2022 NSPW responded that "only two mussels, giant floaters," were found at Saxon Falls.</p> <p>While Michigan endangered and special concern mussel species were found in the study area at Superior Falls, NSPW argued the distribution did not justify requests for more protective operations. As part of their response NSPW indicated (copying a statement in the 2021 EDGE report about listing status): "The giant floater carries no federal or state protection designations." While it is true that giant floaters (<i>Pyganodon grandis</i>) are not currently listed as threatened or endangered, all mussels are protected in Michigan. Some mussel species are also listed as threatened and endangered species, and when those are known or expected additional measures may be required to ensure compliance with Part 365 and due care. Planning and mitigation measures are needed to minimize harm and degradation of all native mussels and their habitats.</p> <p>NSPW stated: "The Superior Falls waterfall serves as a barrier which prevents mussel host fish from traveling upstream, thereby preventing upstream mussel colonization from the source population below the falls." While it is true that tailwater populations are not likely to be propagating the areas upstream of the barriers, native freshwater mussels can colonize as fish travel within watersheds in a downstream direction. The very limited view of NSPW is not substantiated by specific host-species relationships; further it is quite possible that given the limited survey efforts populations were missed, or additional mussel species could establish during the standard license length. Even if only the most common native mussel species were found, protections are still warranted.</p>	<p>The Projects are operated in a run-of-river mode where discharge below the tailrace approximates the sum of inflows into the Project reservoir. Therefore, the reservoirs are not subject to daily fluctuations due to power generation.</p> <p>The "existence of Saxon Falls and Superior Falls" Projects as an alternative cited by the MDNR as justification for a unionid conservation and protection plan requires decommissioning of the Project to be considered as a reasonable alternative to be evaluated and studied in the NEPA analysis of the relicensing process. In Scoping Document 2 (January 31, 2024), the Commission stated in Section 3.5.3 that Project Decommissioning was not a reasonable alternative to be evaluated and studied as part of the NEPA analysis in the relicensing process.</p> <p>See NSPW's response to RAW Recommendation 11 regarding eagle nest protection and NLEB roost tree protection.</p> <p>NSPW currently implements an Avian Protection Plan to ensure that its electric facilities are compliant with the Migratory Bird Treaty Act. A copy of the avian protection plan was provided in NSPW's May 24, 2024 response to the Commission's request for additional information (Accession No. 20240524-5029). Since there is an existing plan, there is no need to develop a new plan.</p>
<p>MDNR 10</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 10. NSPW should promote native pollinator habitat and avoid use of chemicals or other activities that could be harmful to Monarch Butterfly.</p> <p><u>Explanation:</u> Vegetation management activities were identified as potentially affecting suitable habitat for Monarch Butterfly. NSPW proposes to conduct vegetation management between October and April 30 to avoid impacts to Monarch Butterfly until a determination is made regarding listing Monarch Butterfly. This effort could be bolstered by 1) not waiting until Monarch Butterfly is listed to undertake protective activities, and 2) promote habitat that would aid recovery of Monarch Butterfly and other native species.</p>	<p>In its August 28, 2023 response to the Commission's request for additional information (Accession No. 20230828-5314), NSPW provided information on activities that may impact the monarch butterfly at each Project. These activities are primarily limited to vegetation management, which is conducted once every few years at both Projects. At Superior Falls, this includes an approximate 0.3 acre area located between the surge tank and substation. At the Saxon Falls Project, vegetation management is conducted along an approximate 0.9 acre corridor adjacent to the conduit and penstock from the dam to the powerhouse and an approximate 0.8 acre corridor along the transmission line leading to the substation.</p> <p>NSPW has proposed to conduct its vegetation management activities between October 1 and April 30 when the Monarch is typically not present in the vicinity of the Projects. This practice would continue until a determination is made by the USFWS regarding the listing of the species. The operation of the Projects, with the implementation of these proposed interim measures, is not expected to result in the take of adults, larva, or caterpillars. The periodic maintenance of these sites will also help to maintain open areas that may be suitable for milkweed and nectar species used by the Monarch.</p>
<p>MDNR 11</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 11. MDNR supports the Licensee's suggestion to develop an invasive species management plan for Saxon Falls and Superior Falls.</p> <p>The minimum requirements of such a plan include management actions to prevent the spread of invasive species, including more frequent monitoring (at least annual), and active control efforts and reporting of suspected and confirmed invasive species by the licensee and its agents. Monitoring must include simultaneous control as much as possible. Invasive</p>	<p>To prevent the introduction of new invasive species to the Projects, NSPW has proposed to follow the WDNR early detection and rapid response program. The proposed Rapid Response Invasive Species Plan will limit dispersal of established invasive species populations and identify, manage and control newly emerging invasive species.</p> <p>Due to the small size of the Project impoundments, and the limited number of public access sites, NSPW is proposing to conduct biennial monitoring of the recreation access points and regularly maintained Project</p>

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	<p>species management at minimum must include Michigan Watch List Species, Wisconsin NR 40 or equivalent, regional CISMA priority species, and Purple Loosestrife. FERC should also incorporate requirements regarding ground disturbance and plantings to reduce the probability of new infestations including by using local genotype plants and seeds, providing follow-up monitoring, and reseeding efforts, and using certified weed-free materials.</p> <p><u>Justification:</u> MDNR recommends a license article requiring that the Licensee control invasive species on its property including Michigan Watch List Species, Wisconsin NR 40 species, and Purple Loosestrife because that focus area is expected to balance effectiveness of efforts and value to habitat. In addition to controlling invasive species, preventing their introduction and establishment should be included in ground disturbing activities, and considered as part of operating the project. The license should include requirements to use weed-free annual mixes and native seed mix using local genotype sources for longer term revegetation in disturbed areas. The License should include conditions requiring that the licensee monitor all revegetated areas annually for five years and re-treat and re-monitor areas as needed; control Class A noxious weeds using appropriate mechanical, biological, and chemical treatments; and implement fire suppression measures during construction and operation to minimize potential damage to wildlife habitat. These measures could be crafted to additionally support the Monarch Butterfly a candidate species under the ESA which was identified as potentially occurring at the projects.</p> <p>At minimum, annual surveys in the growing season are needed to effectively identify and control species of concern over the course of the license. Purple loosestrife is an example of an invasive species with a life history that can facilitate or hamper control efforts as it has a multi-year life habit, so revisiting the same site where a previous occurrence was found can be very effective; however, missing control opportunities, such as happened recently in 2024 may lead to much more challenging control in the short term, or dramatic increase in population and impacts. MDNR expressed concern (e.g., 20230223-5137) about how the licensee would implement control measures under its license proposal, and this incident exacerbates that concern. If subsequent surveys find additional Purple Loosestrife plants, control should be required.</p>	<p>facilities where invasive species are most likely to first become established. NSPW proposes to develop the Rapid Response Invasive Species Plan within 1 year of license issuance. The monitoring will be conducted biennially beginning in year 2 after the license is issued. The plan will require monitoring at the following locations:</p> <p>Saxon Falls</p> <ul style="list-style-type: none"> • Boat landing, canoe portage take-out, parking area, and the regularly maintained area near the dam. • Penstock corridor extending from the dam to the powerhouse. • Scenic overlook and parking area • Tailwater access • Transmission line corridor extending from the powerhouse to the substation. <p>Superior Falls</p> <ul style="list-style-type: none"> • Canoe portage take-out and regularly maintained area near the dam. • Penstock corridor extending from the dam to the powerhouse. • Scenic overlook and parking area • Bank fishing area and the area maintained around the powerhouse. <p>The plan will include the following provisions:</p> <ul style="list-style-type: none"> • A focus on the control of species that are not already established in the area and where early detection and control will limit their dispersal. • Monitoring in late summer (July and/or August). • Monitoring by personnel familiar with the visual characteristics of terrestrial and aquatic invasive species. • Monitoring on foot in terrestrial areas and at the aquatic/terrestrial interface of the shoreline at water access sites to the extent it encompasses the entirety of any contiguous invasive plant community. • Data sheets documenting each new occurrence of rapid response invasive species. • The location of each new rapid response invasive species occurrence will be collected via handheld GPS. • Monitoring and/or control of newly emerging species will continue until such time the species becomes prevalent in the area or limited local control measures within the Project boundaries are no longer effective in stopping the spread of the species. • Control measures may include manual removal, mechanical removal, or chemical treatment and will be determined in consultation with MDNR and WDNR. • NSPW shall be responsible for initiating control for rapid response species identified during the surveys with assistance from WDNR and/or MDNR. • Newly documented invasive species may be added to the list of rapid response species to be monitored, but only if they are currently not common to the region and where early, limited control and detection may stop the species from spreading. • Species may be removed from the list if they become so prevalent that limited control measures within the Project boundaries are no longer effective in limiting their spread. • Measures to increase public awareness via the posting of invasive species signage at recreation sites will be implemented if said signage is provided by WDNR and/or MDNR. • The condition of any invasive species signage provided by WDNR and/or MDNR will be evaluated during each survey and the signs will be replaced, as necessary, as long as new signs are provided by WDNR and/or MDNR. • Best management practices will be implemented to prevent the spread of invasive species during transportation of equipment used for the operation and maintenance of the Projects. • The WDNR and MDNR shall be notified within 5 days of licensee identifying a new rapid response species. <p>The plan will also include a requirement to provide an annual monitoring report to the agencies by December 31. The report will include the results of the monitoring, copies of any data forms, and a summary of any control activities conducted as a result of the monitoring. WDNR and MDNR will be provided a minimum of 30 days to provide comments on the report. Agency comments will be addressed in a final report to be filed with the Commission no later than March 15 of the following year.</p>
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Saxon Falls and Superior Falls License Recommendations and NSPW Responses

			<p>The MDNR recommendation to include managing/monitoring species prevalent in the area or species where limited local control measures within the Project boundaries are no longer effective in stopping the spread of the species is not appropriate. MDNR provides no evidence that Project operations or maintenance activities are contributing to the expansion of invasive species which are already prevalent in the area.</p>
MDNR 12	MDNR Comments 12/09/2024	<p>MDNR Recommendation 12. Limit License Term to 40 years.</p> <p><u>Explanation:</u> NSPW filed an amendment (20241107-5178) that noted it intends to seek a 50-year license for Saxon Falls and Superior Falls. While FERC has recently set 40 years as a default license term (PL17-3-000), given the lack of substantial improvements and resistance to incorporating ongoing consultation and plan development as part of this licensing process at Saxon Falls and Superior Falls, we are not supportive of a 50-year license. MDNR would support a license that is 40 years or less.</p> <p><u>Justification:</u> FERC stated that when considering the appropriateness of longer than 40-year license terms "Maintenance measures and measures taken to support the licensing process will not be considered." NSPW seems to be requesting credit (in terms of license length) from FERC for requirements of the licensing process as well as general project maintenance such as adding gravel (Final License Application (FLA) Exhibit E 8.3.3 Recreation Facility Condition Assessment — 8.3.3.1) and replacing fading signs (FLA Exhibit E 8.3.3 Recreation Facility Condition Assessment — 8.3.3.2). FERC indicated they will consider, on a case-by-case basis, measures and actions that enhance non-developmental project purposes (i.e., environmental, project recreation, water supply), and those that enhance power and developmental purposes, together with the cost of those measures and actions to determine whether they are significant and warrant the granting of a longer license term than 40 years. Our impression is that licensees generally view longer licenses as having significant value. Comments on FERC's NOI relating to revising its policy on license terms discussed 'regulatory certainty' and costs including costs of relicensing as justification for longer licenses. While we recognize the generation value of the projects, NSPW is requesting the longest possible license term and offering comparatively few tangible improvements and firm commitments that are typically weighed by FERC. Saxon Falls already received a 5-year extension in 2014 without costly new license requirements or conditions. It also appears likely NSPW will be granted one or more annual licenses, which will provide time needed for crafting the license, but in some sense act as no-cost extensions of the previous license. NSPW indicates in its 20241107-5178 filing that it will be making some substantial improvements at Gile. It is worth noting that the improvements at Gile do not affect the Saxon Falls and Superior Falls facilities, and it appears investments at Gile are likely to be subsidized by a \$4.1 million federal grant (NOAA Office for Coastal Management which is supporting sales of some thousand acres of land around the Gile reservoir.</p>	<p>See NSPW's response to AW Recommendation 10.</p> <p>MDNR has selectively quoted the wrong portion of the Commission's policy that discusses reasons for issuing licenses for terms other than 40 years (see Policy Statement on Establishing License Terms for Hydroelectric Projects, 161 FERC ¶ 61,078 (2017); 82 Fed. Reg. 49,501 (Oct. 26, 2017)). The Commission's policy also states: "Third, the Commission will consider a longer license term – provided that doing so is consistent with coordinating license terms within a basin – when a license applicant specifically requests a longer license term based on significant measures expected to be required under the new license or significant measures implemented during the prior license term that were not required by that license or other legal authority and for which the Commission has not already given credit through an extension of the prior license term. The Commission will consider, on a case-by-case basis, measures and actions that enhance non-developmental Project purposes (i.e., environmental, project recreation, water supply), and those that enhance power and developmental purposes, together with the cost of those measures and actions to determine whether they are significant and warrant the granting of a longer license term. Maintenance measures and measures taken to support the licensing process will not be considered. As guidance, we note that the Commission has found that measures including the construction of pumped storage facilities, fish passage facilities, fish hatcheries, substantial recreation facilities, dams, and powerhouses warranted longer license terms. (<i>emphasis added</i>)"</p> <p>MDNR is incorrect in asserting that the pending reconstruction of the dam falls under the category "maintenance measures or measures taken to support the licensing process". On the contrary, the pending reconstruction of the dam is being driven by FERC's dam safety requirements.</p> <p>NSPW is requesting a license term of 50 years for the Saxon Falls and Superior Falls projects pursuant to the Commission's aforementioned policy. The justification for the 50-year license is predicated on the structural improvements proposed for the Gile Dam. The Gile Dam is currently regulated by the state of Wisconsin and as currently constructed, does not meet FERC's more restrictive dam safety standards. To meet FERC's dam safety standards, NSPW estimates that the construction of the new dam will cost approximately 10 million dollars. The MDNR is incorrect in asserting required activities are "maintenance measures or measures taken to support the licensing process." The construction of the new dam also directly impacts the economics of the downstream Projects, as the water released from the Gile Dam contributes approximately 20% to downstream power generation.</p> <p>The construction of the new Gile Dam will not be financed by a NOAA Office for Coastal Management Grant. Contrary to MDNR's assertion, the construction will be funded entirely by NSPW and will receive no financial benefit from the proposed sale of the Gile Flowage lands or any NSPW owned lands.</p>
MDNR 13	MDNR Comments 12/09/2024	<p>MDNR Recommendation 13. Pursue comprehensive NEPA analysis.</p> <p><u>Explanation:</u> Due to regulations on NEPA documents including page limits (40 CFR 1502.7), we defer to federal agencies regarding the exact format for the analysis; however, we recommend that FERC staff pursue an approach (likely through an Environmental Impact Statement) which allows for the interaction between projects and cumulative effects on aquatic resources to be fully considered.</p> <p><u>Justification:</u> FERC NEPA documents are important in setting the stage for Licensees and resource agencies for the term of the license, and often beyond an individual license term. Beyond being required by law, the NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences and take actions that protect, restore, and enhance the environment. As outlined in 40 CFR 1500.1(a), because the purpose of NEPA largely overlaps with MDNR's mission and values, we support a comprehensive NEPA process.</p>	<p>See NSPW's response to AW Recommendation 1.</p> <p>The Commission has indicated that it intends to complete an Environmental Analysis for each Project. (Accession No 20241223-3025) (Accession No. 20241223-3026).</p>

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<p>MDNR 14</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 14. Retain existing license project boundary and expand the project boundary where it does not extend beyond the Ordinary High-Water Mark (OHWM) and adjacent land is not already developed.</p> <p><u>Justification:</u> MDNR objects to reducing the Saxon Falls and Superior Falls project boundaries. We regard maintaining protections on the riparian corridor and surrounding uplands as instrumental in ensuring project benefits including water quality, conservation of aquatic and terrestrial habitats, protection of rare and sensitive species, scenic and aesthetic values, and recreational opportunities.</p> <p>The area proposed for removal from the Superior Falls project boundary include a substantial proportion of wetland areas, including some that appear to potentially be influenced by water levels at the project (see Table 4 and Table 6 Cover Types January 5 AIR-5 response). These areas must be retained for not only natural resource protection, but also for project operations.</p>	<p>See NSPW's response to EGLE Recommendation 1.</p> <p>MDNR's recommendation to expand the Project boundary would require NSPW to obtain additional land rights to a number of parcels at the Saxon Falls Project that are privately owned, unaffected by Project operations, and are not currently available for public use. It is inappropriate to include privately owned lands within the Project boundary without providing evidence that the lands are affected by the Project or necessary for Project operations. MDNR has provided no such justification.</p> <p>The proposed Project boundary upstream of the Superior Falls Dam will include only those areas inundated from the impounding effects of the dam. To include adjacent wetlands that were not created as a result of the impoundment is inappropriate as these wetland are not necessary for Project operations. Wetlands proposed for exclusion from the Project boundaries will still be afforded local, state, and federal protections as described in NSPW's response to EGLE Recommendation 1.</p>
<p>MDNR 15</p>	<p>MDNR Comments 12/09/2024</p>	<p>Recommendation 15. Require the development of a recreation management plan which would include terrestrial and water-based recreation.</p> <p><u>Justification:</u> Many commenters request a whitewater management plan, access improvements, and related provisions for paddling and similar uses - especially whitewater recreation.</p> <p>MDNR regards supporting the interest in recreational use at the project as a reasonable responsibility of the licensee in connection with its use of the project waters for generation purposes.</p>	<p>See NSPW's response to AW Recommendation 5 and 7 and DOI's Recommendation 5 regarding development of recreation management plans.</p>
<p>MDNR 16</p>	<p>MDNR Comments 12/09/2024</p>	<p>MDNR Recommendation 16. Require licensee to provide recreational amenities if current recreation sites become overcrowded or are no longer maintained.</p> <p><u>Justification:</u> The NSPW provided recreation survey indicates that Gogebic County (Greg Ryskey) maintains the Montreal River Gorge Overlook and the Lake Superior Overlook, that the Lake Superior Overlook parking area is exceeding capacity in the summer, and that improved walking and multi-use trails are needed within the project vicinity. These needs could be met as part of the project relicensing. If during the license term locally provided amenities cannot be maintained by the community, the Licensee should step in to provide them. The requirement for Licensee oversight and responsibility for recreational amenities is amplified if FERC grants a longer than standard license term.</p> <p>MDNR supports American Whitewater's request for a better map of project amenities than is included in the environmental review document. We also encourage NSPW and FERC to review whether the "consistent signage NSPW stated it prefers is objectively better than the recommended signage recommended by resource user groups.</p> <p>American Whitewater asked NSPW to use signage meeting current standards, to which NSPW replied "NSPW will utilize safety signage that is consistent with the safety signage at its other hydroelectric facilities in Wisconsin to minimize costs and provide a consistent safety message.</p> <p>MDNR supports American Whitewater's request for a better map of project amenities than is included in the environmental review document. We also encourage NSPW and FERC to review costs relating to termination of hydropower development and full site restoration to protect the environment and aquatic resources.</p>	<p>The Lake Superior Overlook is located on Gogebic County Lands outside the Superior Falls Project boundary. Therefore, it is not a FERC-approved recreation site. However, the overlook does share a parking area with the Superior Falls Tailwater Access.</p> <p>The results of the recreation survey, found in Section 8.3.5.2-1 of Exhibit E, showed that the Superior Falls Tailwater Access received the most use with 76 observed users and an average and maximum utilization rate of 36.2% and 86.7%, respectively. The Superior Falls Scenic Overlook had 25 observed users with an average utilization rate of 11.9% and a maximum utilization rate of 33.3%.</p> <p>There is a shared parking area for the Lake Superior Overlook and Tailwater Access Site on Gogebic County Lands. There is also an adjacent parking area associated with the Superior Falls Scenic Overlook on NSPW lands. There is also additional overflow parking available along the side of the access road leading to both sites. While the county-owned parking area may be over capacity at certain times during the year, the additional parking available on NSPW lands associated with the scenic overlook and access road provides sufficient capacity for all interested users.</p> <p>The Montreal River Gorge Overlook, identified by Gogebic County in their response to the recreation survey, is not located within either Project boundary. The coordinates provided in their survey response show the site as being located on Gogebic County lands between the two Projects. The scenic overlook is associated with Gogebic County's multi-use trail #160, both of which are part of the Gogebic County Powers Road Recreation Area. Gogebic County provided no specific information regarding which trails needed to be improved, what improvements were needed, or if they were located in the Project boundary. The Powers Road Recreation area is adjacent to both Projects and, according to the Gogebic County 2023-2027 Recreation Plan, provides approximately 30 miles of trails allowing multiple uses including non-motorized, ATV/ORV, and equestrian. The recreation area also includes several miles of walking trails for hunters. The trail opportunities afforded the public in the vicinity of the Projects is sufficient.</p> <p>Neither the Lake Superior Scenic Overlook nor the Montreal River Gorge overlook are FERC-approved recreation sites. Therefore, any needs identified at these sites (other than parking also associated with NSPW's FERC approved sites) are the responsibility of the property owner.</p>

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			<p>NSPW has proposed to replace the existing Part 8 signs at each Project. Maps of the available amenities will be included on these signs.</p> <p>See NSPW's response to EGLE Recommendation 5 regarding the financial assurance and retirement costs.</p>
MHRC 1	Michigan Hydro Relicensing Coalition (MHRC) Comments 12/06/2024	<p>MHRC Recommendation 1. Project Lands.</p> <p>The licensee (NSPW) proposes to remove approximately 90 acres of land and 335 acres of land from the Saxon Falls and Superior Falls project boundaries, respectively. The Coalition is opposed to the removal of any project lands from the respective project boundaries for the following reasons. Having lands associated with the projects gives an additional measure of control enabling protection of water quality via riparian corridor protection. Having lands within the project boundaries also offers a measure of protection in the sense that any proposed changes to land uses over the course of the term of the license would require Commission approval (and presumably resource agency and Tribal consultation). While NSPW stated that no changes to land use policy are anticipated in the "reasonably foreseeable future" for any project lands, there are no guarantees that this would remain the case over the entire term of a new license, especially should the Saxon Falls-Superior Falls hydropower projects ever change hands (e.g., sale of assets).</p>	<p>See NSPW's response to EGLE Recommendation 1.</p>
MHRC 2	MHRC Comments 12/06/2024	<p>MHRC Recommendation 2. Land Management Plan.</p> <p>The Coalition also recommends that development of a land management plan be a requirement of the new licenses, and that this plan be developed in consultation with the resource agencies, Tribes, and other interested stakeholders.</p> <p>Such a plan would outline and develop prescriptive measures for the protection of the various resources associated with these project lands.</p>	<p>See NSPW's response to EGLE Recommendation 1 regarding development of a Land Management Plan.</p>
MHRC 3	MHRC Comments 12/06/2024	<p>MHRC Recommendation 3. License Term.</p> <p>The licensee requests a 50-year license term which the Coalition is opposed to for the following reasons:</p> <ul style="list-style-type: none"> Aging infrastructure - given the age of the Saxon Falls, Superior Falls and Gile Flowage Dams, these dams meet the descriptor "aging infrastructure," that being beyond the nominal 50-year design life. As such, it would be imprudent for the Commission to grant a 50-year license given that these dams may be approaching the end of their useful life. The Coalition recommends a 30 year term as reasonable given any stated licensee lack of investment in the foreseeable future at the Saxon Falls and Superior Falls projects. <p>Specific to the Gile Flowage Project, NSPW requested a 49-year, five month license term using the justification of the anticipated costs associated with the pending spillway modifications at the Gile Dam. The Coalition reminds the Commission that its policy for license terms does not include maintenance as a justification for increasing ("Maintenance measures and measures taken to support the licensing process will not be considered. Therefore, the Coalition recommends a 30-year license term for the Gile Flowage license.</p> <ul style="list-style-type: none"> Climate change - the potential for more extreme flood events associated with climate change is an additional reason to limit the new license terms to 30 years. 	<p>See NSPW's response to AW Recommendation 10 and MDNR Recommendation 12.</p>

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MHRC 4	MHRC Comments 12/06/2024	<p>MHRC Recommendation 4. Financial Assurance.</p> <p>The Coalition also proposes that any new licenses include requirements for “financial assurances” for long-term project maintenance and eventual removal and restoration. The Commission is currently considering a rule-making change that would require financial assurance measures in hydroelectric licenses (RM21-9- 000).</p> <p>Such measures would be intended to ensure that a licensee has the capability to carry out license requirements and maintain its projects in a safe condition. As previously stated, the Saxon Falls, Superior Falls, and Gile Flowage dams meet the descriptor “aging infrastructure,” and are likely to require significant improvements over the course of a new license term. The assumption that a licensee has the financial capability to conduct necessary dam maintenance just because they are generating a revenue stream from power production has certainly proven to be erroneous (e.g., Tittabawasee River catastrophic dam failures).</p>	See NSPW’s response to EGLE Recommendation 5.
MHRC 5	MHRC Comments 12/6/2024	<p>MHRC Recommendation 4. Recreation.</p> <p>Saxon Falls Overlook Safety fencing should be replaced with split rail or other more appropriate option for a viewing area.</p>	The Saxon Falls Scenic Overlook is situated at least 40 feet above the Montreal River. As such, a split rail fence is not an appropriate means to protect the general public, especially small children, from passing through the fence. The existing chain link fence is the appropriate barrier for providing public safety while still allowing a view of the falls.
MHRC 6	MHRC Comments 12/6/2024	<p>MHRC Recommendation 5. Recreation.</p> <p>Superior Falls path to overlook and safety fencing — some sections appear to have been painted green, which is an improvement, but the type of fencing is not appropriate for a viewing area. Should be replaced with split rail unless required by codes for exclusion from actual equipment.</p>	The Superior Falls Scenic Overlook is situated at least 40 feet above the Montreal River. As such, a split rail fence is not an appropriate means to protect the general public, especially small children, from passing through the fence. The existing chain link fence is the appropriate barrier for providing public safety while still allowing a view of the falls.
MHRC 7	MHRC Comments 12/6/2024	<p>MHRC Recommendation 6. Recreation.</p> <p>American Whitewater recommendations related to recreational watercraft flows - the Coalition supports the AW request that the applicant consider the option for boaters to call ahead for an operator to open the gate or for the gate to be opened on weekends during daylight hours when optimal flows are available in the canyon (primarily April). AW believes that these alternatives should be fully evaluated in the Commission’s environmental analysis.</p>	See NSPW’s response to AW Recommendation 4.
MHRC 8	MHRC Comments 12/6/2024	<p>MHRC Recommendation 8. Recreation Facilities.</p> <p>The Recreation survey states that Gogebic County maintains the Montreal River Gorge overlook and the Lake Superior Overlook, and that the Lake Superior overlook parking is exceeding capacity in the summer. The licensee should provide necessary facilities, and if others are providing facilities relied on, the licensee should pay for that, and if the other entity stops maintaining the facility, the licensee should take over.</p>	See NSPW’s response to MDNR Recommendation 16.
MHRC 9	MHRC Comments 12/6/2024	<p>MHRC Recommendation 9. Recreation Management.</p> <p>Recreation management - should be a component of the land management plan that clearly identifies all facilities and responsibilities for operations and maintenance.</p>	See NSPW’s response to EGLE Recommendation 1 regarding development of a Land Management Plan. See NSPW’s response to AW Recommendation 5 and 6 and DOI’s Recommendation 5 regarding development of a Recreation Management Plan.
MHRC 10	MHRC Comments 12/6/2024	<p>MHRC Recommendation 10. Compliance Monitoring.</p> <p>Compliance monitoring - monitoring of license requirements (flows, impoundment elevations, and water quality) needs to be done using state-of-the-art protocols and technologies (e.g., USGS gauges, etc.).</p>	See NSPW response to DOI Recommendation 8.

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<p>MHRC 11</p>	<p>MHRC Comments 12/6/2024</p>	<p>MHRC Recommendation 11. Agency recommendations.</p> <p>The Coalition supports the forthcoming terms and conditions prescribed in the Clean Water Act Section 401 water quality certifications to be issued by the Wisconsin Department of Natural Resources and Michigan Department of Environment, Great Lakes, and Energy. It also supports the Wisconsin Department of Natural Resources, Michigan Department of Natural Resources, and U.S Fish and Wildlife Service Federal Power Act (FPA) Section 10(a) recommendations for the protection of fish and wildlife resources, the Department of Interior (USFWS) FPA Section 18 fishway prescriptions and any Endangered Species Act Section 7 consultation conditions. The Coalition is also supportive of National Park Service recommendations for recreation resources in the new licenses.</p>	<p>Comment noted.</p>
<p>RAW 1</p>	<p>River Alliance of Wisconsin (RAW) Comments 12/9/2024</p>	<p>RAW Recommendation 1. Project Operation.</p> <p>The licensee should continue to operate the Saxon and Superior Falls Projects in a run-of-river (ROR) mode such that instantaneous inflow closely approximates project outflow from each project.</p> <p>Rationale. We believe operating a hydro project in ROR mode is the most benign way of operating a hydro project as it mimics the natural seasonal hydrograph (flow) of the river. ROR operation helps protect mussels, small fish, macroinvertebrates and other aquatic life, and the habitats upon which they depend, from rapid fluctuations in the near shore waters of the impoundment (littoral zone), as is often the case resulting from an on again/off again hydro peaking mode of operation. ROR operation tends to minimize rapid flow changes in tailwater discharge and thus provides relatively stable living conditions for fish and other aquatic organisms living in the stream bed.</p>	<p>Comment noted. NSPW has proposed to continue operating both Projects in a run-of-river mode.</p>
<p>RAW 2</p>	<p>RAW Comments 12/9/2024</p>	<p>RAW Recommendation 2. Operational Compliance.</p> <p>The licensee should prepare, in consultation with the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Michigan DNR, Wisconsin DNR, and U.S. Fish and Wildlife Service (FWS), a plan to document compliance with the prescribed operating rules stipulated in the licenses for the projects. The plan shall include, but not be limited to, documentation of daily inflow to the project and corresponding discharge records (i.e., plant logs) and the daily range of reservoir fluctuation. Compliance monitoring should be undertaken with USGS gages to ensure accurate data collection.</p> <p>Rationale. An operational compliance plan will allow FERC staff, resource agencies, and other stakeholders to review a record of daily inflow and discharge (cfs) and headwater and tailwater stage (ft. NGVD) to determine if the licensee is complying with the operational rules stipulated in the license. Accurate data can only be collected with quality instrumentation.</p>	<p>See NSPW's response to DOI Recommendation 8 regarding development of an operation compliance plan.</p> <p>See NSPW's response to EGLE Recommendation 2 regarding the need for USGS gaging.</p>
<p>RAW 3</p>	<p>RAW Comments 12/9/2024</p>	<p>RAW Recommendation 3. Aesthetic flow in the bypass channels.</p> <p>To display an aesthetic flow for the enjoyment of the public in the Montreal River Gorge, the licensee should discharge a minimum flow in each bypass channel of the projects.</p> <p><u>Rationale.</u> American Whitewater (AW), Friends of the Gile Flowage (FOGF), Michigan DNR, and National Park Service (NPS) requested that an aesthetic flow study be conducted in the bypass channels of both hydro projects to evaluate the existing project discharge requirements and compare them with higher flow discharge. Information in the license application discusses the increment flow release exercise conducted on 10/20/2021. RAW was not informed about the exercise and thus did not attend. NSPW released flows in 5 cfs increments into the side channels at both projects for evaluation by the group. At Saxon Falls, 5, 10, 15, 20, and 25 cfs were released, and at Superior Falls, 8, 15, 20, 25, 30, and 35 cfs were released. NSPW should consult with stakeholders, including AW, FOGF, Michigan DNR, Wisconsin DNR, and NPS, to try to achieve consensus on what discharge is appropriate to produce a quality recreational experience in each bypass channel for aesthetic purposes</p>	<p>Based upon the study requests submitted during the first stage of consultation, the licensee developed a study summary identifying which studies to complete and their general study protocols.</p> <p>In the study summary, the licensee proposed to complete the following:</p> <ul style="list-style-type: none"> • Aesthetic Flow Documentation • Aquatic and Terrestrial Invasive Species (ATIS) Study (including an aquatic plant study, development of bathymetric maps, and assessment of riverine and reservoir habitat) • Project Boundary Modification (provide additional information in FLA) • Fisheries Study • Mussel Study • Phase I Archaeological Survey and Shoreline Monitoring • Recreation Use Study • Recreation Flow (Whitewater) Study • Threatened and Endangered Species Study (provide additional information in FLA) • Water Quality Study • Wildlife Habitat (provide additional information in FLA)

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			<p>On September 1, 2020, the licensee filed the study summary with the FERC, AW, FOG, MDNR, MHRC, NPS, RAW, and WDNR. Comments were received from WDNR regarding the ATIS and Mussel Studies. AW and NPS provided comments on the Recreation Flow (Whitewater) Study. The complete list of stakeholder comments regarding the study plans, and the licensee's follow-up responses, are included in Volume 4, Documentation of Consultation of the FLA.</p> <p>As noted in Section 9.2.3.1 of Exhibit E of the FLA, NSPW released pre-determined flows from the Saxon Falls Project on October 20, 2021, to document the aesthetic impacts at the Saxon Falls waterfall. Flows released included 5 cfs (current required minimum flow), 10 cfs, 15 cfs, 20 cfs, and 25 cfs. Representative photographs and videos of each flow were taken from the scenic overlook the photographs were provided in Exhibit E. The video footage was posted on the relicensing website at http://hydrorelicensing.com/saxon for stakeholder review.</p> <p>As noted in Section 9.2.3.2 of Exhibit E of the FLA, NSPW released designated flows from the Superior Falls Project on October 20, 2021, to document the aesthetic impacts at the Superior Falls waterfall. Flows released included 8 cfs (current required minimum flow), 15 cfs, 20 cfs, 25 cfs, 30 cfs, and 35 cfs. Representative photographs and videos of each flow were taken from the Project's scenic overlook. Photos of each flow were included in Exhibit E. Videos of each flow were uploaded to the relicensing website at http://hydrorelicensing.com/superior_falls/ for stakeholder review.</p> <p>None of the stakeholders have provided comments recommending a specific aesthetic flow. The photographs and videos acquired of the various flows provide sufficient information for the stakeholders and the Commission to determine whether the aesthetic flows proposed by NSPW are sufficient.</p>
<p>RAW 4</p>	<p>RAW Comments 12/9/2024</p>	<p>RAW Recommendation 4. Base flow in the bypass channels.</p> <p>To protect fish and other aquatic life in the bypass channels of both projects, the licensee should release a continuous base flow of two cubic feet per second in the channels 24/7 and year-round.</p> <p>Rationale. The minimum flows in the bypass channels of both projects have historically not been sustained 24/7 throughout the year. RAW is concerned with this type of flow release pattern because it causes unstable living conditions for the aquatic community living in the side channels, mainly macroinvertebrates and possibly small fish. Because discharge is terminated part of the year, the channel may well become nearly biologically sterile because of being "frozen out" during winter. Therefore, RAW recommends that a small base flow be released into each side channel year-round irrespective of the aesthetic flow regime. From our experience, two cfs has typically been adequate to sustain aquatic life bypass channels at other hydro projects.</p>	<p>The Projects have been discharging seasonal minimum flows for aesthetic purposes throughout the term of the current and previous licenses. RAW has provided no additional information or data to support a 2 cfs baseflow to sustain aquatic life in the bypass channels.</p>
<p>RAW 5</p>	<p>RAW Comments 12/9/2024</p>	<p>RAW Recommendation 5. Recreational flow releases.</p> <p>To provide recreational boating opportunities at both hydro projects, the licensee should provide recreational flow releases below the Saxon Falls Project. The number of recreational flow releases, month and date scheduled, and amount of flow (cfs) released shall be determined by NSPW through 1) the results of the 05/15/2021 White Water Recreational Flow Study and 2) consultation with the representatives from AW, FOGF, NPS, Wisconsin DNR, and Michigan DNR.</p> <p>Rationale. RAW supports recreational flow releases so long as the aquatic community is protected from rapid flow changes. To minimize stranding of small fish, mussels and other aquatic organisms, a ramping rate should be implemented after a recreational flow release as discharge is returned to normal operation. Further, the boating days should be scheduled when possible, during months of the ice-free season when the Saxon Falls Project is normally spilling water that exceeds the hydraulic capacity of the plant. We realize that providing water for a recreational flow release when inflow does not exceed hydraulic capacity of the turbines will require drawing water from the Gile Storage Reservoir. Accordingly, a balance must be achieved to avoid drawing the reservoir down to a level that</p>	<p>See NSPW's response to AW Recommendation 5.</p>

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		affects fish and wildlife habitat, and recreational use deemed unacceptable by NSPW and local Stakeholders. Use of a Reservoir Flow Routing Model is a useful tool to evaluate tradeoffs in flow discharge allocation.	
RAW 6	RAW Comments 12/9/2024	<p>RAW Recommendation 6. Drawdown management plan.</p> <p>To protect small fish, mussels and other aquatic life from becoming stranded in the riverbed and exposed on dewatered riverbed, the licensee should prepare, in consultation with the Wisconsin DNR, Michigan DNR and FWS, a drawdown management plan to be implemented for projects when there is a need for routine dam and power plant maintenance or if there is a need for an emergency drawdown.</p> <p>Rationale. Maintenance drawdowns can cause adverse impacts to aquatic resources in the reservoir in many ways and especially to mussels. A drawdown plan is clearly needed. In accordance with the Public Trust Doctrine, the mussel community is an aquatic resource that is owned by the public and is to be protected by all water resource users, including licensees operating hydro projects and storage reservoirs. In general, many mussel species in Wisconsin and Michigan streams and larger rivers are in peril. Mussels are an important component of a river system and are sensitive to changes to water level fluctuations in a reservoir and to flow discharge fluctuations in the tailwater of a dam. Mussels are not very mobile and can easily be adversely affected by hydro operations in species diversity and relative abundance within the zone of fluctuation. Drawdowns can also cause other adverse impacts to aquatic resources including dewatering the shoreline and adversely affecting the natural growth cycle of emergent and submergent aquatic plants. Drawdowns also reduce the water volume in the flowage and as such, reduce the living space that adds a stressor that could harm fish and other aquatic life, especially if it lasts many days or months.</p>	See NSPW's response to EGLE Recommendation 4.
RAW 7	RAW Comments 12/9/2024	<p>RAW Recommendation 7. Water Quality.</p> <p>To protect fish and other aquatic life from low dissolved oxygen levels and high-water temperature, the licensee should develop a plan, in consultation with the Wisconsin DNR, Michigan EGLE and Michigan DNR, to monitor at each project dissolved oxygen, temperature, and other parameters as deemed appropriate by Wisconsin and Michigan. The plan should list criteria to ensure that the project is operated over the term of the new license within the state's water quality standards.</p> <p><u>Rationale.</u> It is of critical importance that the project is operated within state water quality standards to protect fish and other aquatic life. The water in the impoundment behind the dam could at times warm beyond the ambient river temperature, particularly in July, August, and September. This can cause the river water temperature to warm unnaturally and raise the discharge temperature through the dam and thus exceed the state standard for temperature. Likewise elevated water temperature can cause the water to hold less dissolved oxygen which can lower the levels to less than 5 mg/L, the state standard for warm water streams and rivers. These conditions can also stress benthos living in the bed of the flowage. Fish, mussels and other aquatic life may be stressed or killed if the appropriate water regime is not managed within State water quality standards.</p>	<p><u>Saxon Falls</u> NSPW's Water Quality Monitoring Study (Study)(Accession No. 20231221-5384), filed with the Commission on December 21, 2023, showed that the Montreal River entering the Saxon Falls Flowage did not meet the state of Michigan water quality standards for temperature or DO. As noted in the Study report, there was an average 0.5°F temperature increase at the downstream monitoring location versus the upstream monitoring location. This is well below the 2°F increase in temperature of the receiving water as identified in <i>Michigan Part 4. Water Quality Regulations in R323.1057 Rule 75 (1)(a)</i>. DO readings at the downstream monitoring location met Michigan state standards more often than at the upstream monitoring site. Therefore, DO levels improved while passing through the Project. The only operational changes proposed at the Project involve increasing the minimum flows in the bypassed reach for aesthetic purposes. This change is not anticipated to have any impact on water temperatures or DO levels downstream of the Project. Therefore, there is no need to conduct additional water quality monitoring at Saxon Falls Project during the term of the subsequent license.</p> <p><u>Superior Falls</u> Similar results were reported for Superior Falls as water entering the reservoir did not meet state of Michigan temperature standards. Water temperatures increased an average of 0.1°F, (within the margin of error for monitoring) at the downstream monitoring site versus the upstream monitoring site. This is well below the 2°F increase in temperature of the receiving water as identified in <i>Michigan Part 4. Water Quality Regulations in R323.1057 Rule 75 (1)(a)</i>. DO readings averaged about 1.0 mg/L lower at the downstream monitoring site than the upstream monitoring site. DO samples taken during the months of July, August, and September, met state standards 97.6%, 99.8%, and 98.3% of the time. DO levels are therefore not adversely impacted by Project operations. Since no changes to Project operations are being proposed, and the current operations do not adversely impact water quality, there is no need to conduct additional water quality monitoring at Superior Falls Project during the term of the new license.</p>
RAW 8	RAW Comments 12/9/2024	<p>RAW Recommendation 8. Terrestrial and aquatic invasive species (T&AIS) monitoring.</p> <p>The licensee is a manager of aquatic and terrestrial resources at the FERC-licensed projects along with Wisconsin DNR and Michigan DNR. Therefore, the licensee should develop, in consultation with the Wisconsin DNR and Michigan DNR, a plan to monitor T&AIS biannually</p>	See NSPW's response to MDNR Recommendation 11.

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		<p>(every two years) over the term of the license. Use of Early Detection and Rapid Response Methodology should be used to allow detection and control of emerging invasives before they get firmly established. Focus should be placed on species listed as "prohibited" under Chapter NR-40, Wisconsin's invasive species rule, as these species are likely to cause environmental and/or economic harm, and eradication is still feasible.</p> <p><u>Rationale.</u> According to terrestrial invasive species surveys conducted in the project boundary of both projects, common buckthorn, glossy buckthorn, Canada thistle, wild parsnip, invasive cattail spp., and others were found within one or the other (or both) project boundaries. According to aquatic plant surveys in Saxon Flowage and Superior Flowage, the only invasive species currently found was purple loosestrife. However, over the proposed term of the new licenses, other AIS will likely become introduced, as well as other TIS. Therefore, a TIS & AIS survey should be done biannually. The licensee should implement control measures where practical to remove invasive flora and fauna that are discovered early in their distribution to prevent them from becoming firmly established in project waters.</p>	
RAW 9	RAW Comments 12/9/2024	<p>RAW Recommendation 9. Removal of project land.</p> <p>NSPW should retain all land currently in the project boundary for both Saxon Falls and Superior Falls hydro projects throughout the term of the license for use and enjoyment by the public and the habitat the land provides for wildlife species.</p> <p><u>Rationale.</u> We note that NSPW is proposing in the new license to remove a total of over 400 acres of upland land and inundated land from the project boundaries of both projects. Although the land may not be needed for project operations, it does provide land for the enjoyment by the public for outdoor recreational activities, including shore fishing, hiking, camping, picnicking, bird watching and other wildlife viewing, and general aesthetic viewing. In addition to being a recreational resource, project land provides habitat for many species of upland game that contribute to the wildlife community of the region. If removal of the land is required in accordance with FERC regulations, then we recommend that NSPW formulate a specific land instrument (such as deed or easement to the State or County) such that land withdrawn from the project boundary can remain open for public use.</p>	See NSPW's response to EGLE Recommendation 1.
RAW 10	RAW Comments 12/9/2024	<p>RAW Recommendation 10. Land management.</p> <p>NSPW should establish a no-cut buffer zone of 200 feet within the project boundary of each project.</p> <p><u>Rationale.</u> As an owner of land in the boundary of a FERC licensed hydro project, NSPW is a land manager, and with that responsibility comes land management stewardship. A buffer zone of 200 feet along the project boundary would provide many environmental benefits, including preserving old growth timber and sustaining other riparian vegetation, all of which provides wildlife habitat. Another well-known beneficial effect of a buffer zone is that it filters runoff water from the land, which will help protect water quality in the Montreal River. We understand that selective cutting of dead and diseased trees within a buffer zone is necessary periodically to maintain forest health in the riparian zone.</p>	<p>NSPW addressed timber management within the buffer zone in its August 8, 2022 response to the Commission's Deficiency of License application and Additional Information Request (Accession No. 20230828-5314).</p> <p>To protect aesthetics at both Projects, no timber harvests are planned within the buffer zones. However, NSPW may need to remove hazardous trees near Project facilities, or recreation sites for public safety, during the term of each license. Any tree removal activities will follow the guidelines set forth in the WDNR's Forest Management Guidelines, Chapter 4 Visual Quality and Chapter 5 Riparian Areas and Wetlands. All tree removal activities will also follow the current USFWS Northern-long Eared Bat guidelines and the WDNR Broad Incidental Take Permit/Authorization for Wisconsin Cave Bats.</p>
RAW 11	RAW Comments 12/9/2024	<p>RAW Recommendation 11. Nest tree protection.</p> <p>NSPW should develop a plan, to be implemented over the term of the license, to protect bald eagles and ospreys and their nest trees from land disturbing activities associated with operation of the project. In addition, NSPW should protect trees that are used as roosting or nesting habitat for the Northern long-eared bat, a federally threatened species, if this species of bat at some point in the future nests on project land.</p> <p><u>Rationale.</u> Although the bald eagle was taken off the federal threatened and endangered species list, it is still protected under the Migratory Bird Treaty Act, as is the osprey. The FWS has guidelines to protect eagles and eagle nests that the licensee can follow if land</p>	<p>Nest tree and roosting tree protection are addressed in Exhibit E of the FLA. Therefore, no specific plan regarding nest tree protection is needed.</p> <p>Section 6.3.2.2 of Exhibit E of the FLA discusses how NSPW will protect bald eagle nests over the license term. NSPW proposes to identify existing eagle nests in the vicinity of the Projects using the Wisconsin NHI database. Should a nest be identified, NSPW will establish a buffer zone of at least 660 feet between the nest and any proposed construction, maintenance, or vegetation management activities. If any nests are encountered within 660 feet of said activities, NSPW will schedule the activities between August 1 and January 15, which is outside of the eagle nesting season. In the event that work within 660 feet of an eagle nest cannot be avoided during the nesting season, NSPW will consult with USFWS and implement agreed-upon protection measures.</p>

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		<p>disturbance activities on project land are needed. The licensee should consult with the FWS for guidance and obtain Bald Eagle Protection Guidelines.</p>	<p>In Section 6.3.2.3 of Exhibit E of the FLA, NSPW describes how it will protect the roosting sites of the federally threatened Northern Long-eared Bat (NLEB). More specifically, NSPW proposes to avoid tree removal at both Projects unless the tree poses a threat to human life or property, or removal occurs outside the NLEB pup season (i.e., June 1-July 31). Additionally, NSPW will only remove bats from structures within the Project boundaries after consulting with USFWS and following their recommendations.</p> <p>The osprey was not identified in either Project's state of Wisconsin NHI review or state of Michigan's rare species review. Therefore, no protection measures for the species are necessary.</p>
<p>RAW 12</p>	<p>RAW Comments 12/9/2024</p>	<p>RAW Recommendation 12. Recreation.</p> <p>NSPW should develop a Recreation Plan for each project that will be implemented over the period of the new license. RAW recommends that the licensee do the following:</p> <ul style="list-style-type: none"> -Make the recreational improvements at both projects summarized in Table 8.7.3-1 of the license application titled: Estimated recreational improvement costs for the SUFs Project and Table 8.7.3-2: Estimated recreational improvement costs for the SUPs Project. -Replace the chain link Saxon Falls overlook safety fencing with split rail or another more appropriate option for a scenic viewing area. -Replace the chain link safety fencing from the Superior Falls path to the overlook. Some sections appear to have been painted green, which is an improvement, but the type of fencing is not appropriate for a viewing area. The fencing should be replaced with split rail unless required by codes for exclusion from actual equipment. -Provide necessary parking facilities; if facilities owned or maintained by others are being relied upon, a) the licensee should pay for those facilities, and b) if the other entity stops maintaining the facility, the licensee should take over the facility. This recommendation will address the parking capacity exceedance issue during the summer. -RAW supports American Whitewater's recommendations regarding the proposed card system for recreational access. We agree that the licensee should instead consider the option for boaters to call ahead for an operator to open the gate or for the gate to be opened on weekends during daylight hours when optimal flows are available in the canyon (primarily April). These alternatives should be fully evaluated in FERC's environmental analysis. -Prepare brochures or update the existing ones showing a map of each project, the location of all recreational facilities, and signage along roads to get to each recreational facility. -Maintain all recreational sites (i.e., parking lots, boat launches, fishing piers, trails, and canoe portages) in good condition over the period of the license. -Upgrade the recreational signage to current FERC standards throughout the project. -Install new recreational facilities over the period of the license on an as needed basis as demand dictates. <p>Rationale. The reservoir and rivers impounded by hydro projects have long ago become major sources of recreation for the public. FERC's permission via a license for a utility to use an impoundment and/or free flowing river to generate hydropower mandates that recreational facilities (among many other environmental considerations) be installed within the project boundary and be kept in good condition for public use. People are entitled through the Public Trust Doctrine to use the reservoirs and riverine sections impounded by dams for recreational use. This includes fishing, boating, hiking, bird watching, picnics and camping.</p>	<p>See NSPW's response to AW Recommendation 5 and 7 and DOI Recommendation 5 regarding recreation.</p> <p>NSPW has not proposed to develop recreation brochures; however, the recreation plan will include a map showing the location of FERC-approved recreation facilities. NSPW has also proposed to develop new Part 8 signs for each Project, which will also feature a map depicting FERC-approved recreation facilities.</p>

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RAW 13	RAW Comments 12/9/2024	<p>Recommendation 13. License Term.</p> <p>The licensee has requested a 50-year license term, which we oppose; we instead recommend a 30-year term for Saxon Falls and Superior Falls.</p>	See NSPW's response to AW Recommendation 10 and MDNR Recommendation 12.
RAW 14	RAW Comments 12/9/2024	<p>Recommendation 14. Financial Assurances.</p> <p>RAW supports MHRC's recommendations related to financial assurances. Any new license granted by FERC should require financial assurances for long-term project maintenance and eventual removal and restoration to ensure that a licensee has the capability to carry out license requirements and maintain its projects in a safe condition.</p> <p>Rationale. Considering the ages of the Saxon Falls, Superior Falls, and Gile Flowage dams, they are likely to require significant improvements over the course of a new license term. The assumption that a licensee has the financial capability to conduct necessary dam maintenance just because they are generating a revenue stream from power production has certainly been proven to be erroneous (e.g., Tittabawasee River dam failures). Therefore, it is imperative that some form of financial assurance be a license requirement.</p>	See NSPW's response to EGLE Recommendation 5.
WDNR 1	Wisconsin Department of Natural Resources (WDNR) Comments 12/6/2024	<p>WDNR Recommendation 1. Operations.</p> <p>Dam operations at the Gile Flowage have historically been regulated by the Department's state dam safety program, and the Saxon Falls and Superior Falls dam have been regulated by FERC. With the Gile Flowage contributing significant water to the downstream dams, there is a need for a comprehensive operations plan that includes how each dam operates individually, and how the dams operate together to maintain flows in the river, provide recreational opportunities, and manage the natural resources.</p> <p>The Department plans to require an operations plan for all 3 dams, to include processes and operations to manage drawdown cycles at Gile Flowage, meet the needs of recreational releases for Saxon and Superior, and ensuring operational compliance with water levels and flows. The Operation Plan commonly includes methods to document water levels and flows, deviation reporting, low flow/high flow contingency, emergency management, etc.</p>	See NSPW's response to DOI Recommendation 8.
WDNR 2	WDNR Comments 12/6/2024	<p>WDNR Recommendation 2. Threatened and Endangered Species.</p> <p>Currently, the department provides annual listed species reviews and consultation to the licensee, documenting the listed species that have been verified in or near the FERC project boundaries. As part of this review, the licensee is provided with information regarding regulatory requirements to comply with the state Endangered Species Act, which is based upon the requirement of the federal Endangered Species Act. The letter provides information about the species, including options to avoid and minimize impacts, and requirements for department consultation when impacts cannot be avoided.</p> <p>Several species may be impacted by dam operations, drawdowns, and repairs. The requirements for protection of listed species needs to be coordinated and managed in compliance with their regulatory requirements. The department will work with the licensee to ensure compliance with the state endangered species laws for listed species. Management for listed species can occur through various processes at the department, can be incorporated into other management plans, or can be developed as part of a specific management plan.</p>	Comment noted.

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WDNR 3	WDNR Comments 12/6/2024	<p>WDNR Recommendation 3. Water Quality.</p> <p>The licensee is expected to demonstrate that their hydropower operations comply with state water quality standards. The department will require a water quality monitoring plan to ensure that the dam operations are maintaining compliance with state water quality standards and designated uses. The management plans commonly require data collection using department standards and methodology. The management plan should be developed to identify data collection methodology, reporting processes, and agency consultation.</p>	<p>As noted in NSPW's Water Quality Monitoring Study (Accession No. 20231221-5384), filed with the Commission on December 21, 2023, water quality in the Montreal River entering the Saxon Falls Project did not meet state of Wisconsin water quality standards for temperature and DO. Although state standards were not met for water entering the Saxon Falls reservoir, they were met at the site downstream of Saxon Falls, and all monitoring sites at Superior Falls. This indicates that the operation of the Projects is not adversely impacting water quality in regard to state of Wisconsin standards. Since no changes to operations are being proposed that would impact water quality, there is no need to continue to monitor water quality over the term of the license.</p>
WDNR 4	WDNR Comments 12/6/2024	<p>WDNR Recommendation 4. Invasive Species.</p> <p>Activities that may contribute to the spread of invasive species include debris removal at the dams, vegetation management, and equipment use. State laws require compliance with invasive species regulations under NR40. To comply with these regulations the department plans to require an invasive species management plan. The plan will include methods, communications, reporting, and management actions. Common elements of these plans include identification of species, reporting of species observations, rapid response for management of species, and methodology for data collection. Additionally, the plan should include best management practices, including decontamination protocols, to minimize and avoid the spread of invasive species.</p>	<p>See NSPW's response to MDNR Recommendation 11.</p>
WDNR 5	WDNR Comments 12/6/2024	<p>WDNR Recommendation 5. Recreation.</p> <p>A variety of recreational amenities are proposed as part of the licenses. The department plans to require a recreational plan to ensure that the amenities meet department standards for public recreation, handicap accessibility, public rights, and safety.</p>	<p>See NSPW's response to AW Recommendation 5 and 7 and DOI Recommendation 5 regarding recreation.</p>

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