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August 30, 2024

VIA Electronic Filing

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

Subject: **Response to US Fish & Wildlife Service License Recommendations
White River Hydroelectric Project (FERC Project No. 2444-042)**

Dear Acting Secretary Reese:

Per the Commission's delegated letter of 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 dated June 14, 2024 ([Accession #20240614-3020](#)), Northern States Power Company - Wisconsin (NSPW) hereby submits its responses to the comments and recommendations provided by the U.S. Fish and Wildlife Service (FWS). The responses are organized in table format that displays the comments and recommendations from the FWS and NSPW's corresponding responses. The comment response table is enclosed as Appendix 1.

Should you have any questions, please contact Matthew Miller at 715-737-1353 or matthew.i.miller@xcelenergy.com.

Sincerely,

Scott Crotty
Digitally signed by
Scott Crotty
Date: 2024.08.30
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Scott A. Crotty
Senior Hydro Operations Manager

Enclosure

cc: Mary Manydeeds, Harold Peterson - Bureau of Indian Affairs (BIA)
David Thomson, Alyssa Wethy - National Park Service (NPS)
Darin Simpkins, Frankie Green - FWS
Jennifer Frozena - US Department of Interior
Shawn Puzen - Mead & Hunt
Robert Olson, Brad Smith – Xcel Energy

Appendix 1 – Reply Comment Table

#	Stakeholder & Description	Comment	NSPW
1	<p>US Fish and Wildlife Service (USFWS or FWS) Comment 07/24/2024</p>	<p>Recommendation 1, Project Operations The USFWS agrees with the continued operation of the project developments as run-of-river with no hydroelectric (hydro) peaking. Rationale: 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 proposes to continue operating the Project in a run-of-river mode.</p>
2	<p>FWS Comment 07/24/2024</p>	<p>Recommendation 2, General Fish Protection The Licensee should maintain trash racks above the intake(s) of the powerhouse(s) to minimize fish entrainment and turbine mortality. The service recommends installing trash racks with a maximum of one inch clear horizontal spacing between bars to minimize juvenile fish entrainment. The Licensee should maintain average normal inflow velocities immediately upstream of the trash rack(s) of the powerhouse(s) to be no greater than two feet per second to protect fish from impingement and entrapment. Rationale: Numerous entrainment and turbine mortality studies conducted over the past 30 years in Wisconsin and Michigan have shown that thousands of fish are entrained annually at hydro projects and that a portion of these fish entrained (2 to 20 percent, plus) 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>The FWS recommendations are arbitrary. Throughout this relicensing proceeding, the FWS has not made any recommendation for 1-inch trashrack spacing nor have they recommended intake approach velocities of <2 feet per second. As discussed in Section 6.1.2.2 of Exhibit E of the Final License Application (FLA), the Project currently features a trashrack with 1.25-inch clear spacing. The intake approach velocity is estimated at 1.18 feet per second and therefore already meets the FWS recommended average normal intake velocities. A two-inch fish would likely have a minimum burst swim speed of approximately 1.2 feet per second. Therefore, most fish species greater than two inches in length exposed to the intake velocities at the Project are likely to escape impingement and entrainment.¹ FWS has not provided any Project specific information that indicates the existing trashracks (spacing or intake velocity) are adversely impacting fish populations or that reducing the clear spacing to 1.0 inch would result in any benefit to fish populations. Therefore, based upon the information included in the FLA, the additional cost to install new trashracks with 1.0 inch clear space is not warranted.</p>
3	<p>FWS Comment 07/24/2024</p>	<p>Recommendation 3, Operational Compliance Monitoring The USFWS recommends the Licensee develop an operational compliance plan for project operations at the White River Hydroelectric Project. 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, water temperatures upstream, within and below the project, and sediment transport dynamics downstream of the project. Staff gauges should be installed showing the reservoir operating bands stipulated in the license. Automatic water level recorders should be installed to record headwater and tailrace elevations and daily turbine operations, headwater and tailrace channel elevations, and flow releases in cubic feet per second through the powerhouses and spillways. The plan should be developed after consultation with the Service, include a schedule for implementation, documentation of consultation with the Service, copies of comments and recommendations on the completed plan, and specific descriptions of how the Service's comments are accommodated by the plan. The Licensee should allow a minimum of 30 days for the Service to comment and make recommendations before filing the plan with FERC. If the Licensee does not adopt a recommendation, the filing should include the Licensee's reasons, based on project-specific information. The plan should be submitted to FERC within three years of issuance of the new license. Rationale: These recommendations are intended to demonstrate compliance with the rules of project operation as stated in the above recommendations for Project Operations. Compliance at all times with prescribed operating rules 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 5.8 of Exhibit E of the FLA, NSPW proposed to develop an operations monitoring plan to "document how it will comply with the operational requirements of the license, including reservoir elevation and minimum flow requirements. The plan will include the following:</p> <ul style="list-style-type: none"> • Locations of headwater monitoring 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, • Schedule for installing and operating the monitoring equipment, and • Procedures to remove ice from the spillway as a planned deviation." <p>Project controls have been upgraded for automatic operation of the generators and spillway gates based on feedback from the headwater probe. Tailwater monitoring devices are unnecessary because there is no requirement to maintain a specific tailwater elevation. The minimum flow for the Project is released through a 12-inch pipe that diverts flow from within the main penstock and discharges to the bypassed reach. The combined flows passing through the powerhouse and bypassed reach are documented via a USGS gaging station located in the tailrace immediately downstream of the powerhouse.</p>
4	<p>FWS Comment</p>	<p>Recommendation 4, Lake Sturgeon Migration and Conservation</p>	<p>This FWS recommendation is arbitrary. Throughout this relicensing proceeding, FWS has not provided any information, study results, or management plans for Lake Sturgeon within the White or Bad Rivers. FWS did not</p>

¹ US Fish and Wildlife Service (USFWS), 1989. Water velocity standards at power plant intakes: traditional and alternate rationales. Research Information Bulletin No. 89-61.

<p>07/24/2024</p>	<p>To meet resource management and species recovery needs, the USFWS recommends the license provide a means to facilitate the safe, timely, and effective upstream and downstream movement of Lake Sturgeon around project developments.</p> <p>Rationale: The Project affects Lake Sturgeon population from both the White River and Bad River to which it flows. Both rivers contain historic spawning areas identified by natural resource professionals and tribes. Variability in flows affects spawning area and the Project impedes downstream passage and prevents upstream passage on the White River.</p> <p>The long-range population goal is to re-establish a self-sustaining, naturally reproducing Lake Sturgeon population within the White and Bad Rivers. Because Lake Sturgeon migrate long distances upstream during spawning season and back downstream post-spawn, barriers to fish passage are considered to be one of the most significant obstacles to restoration of the Lake Sturgeon population in the basin. In the late 1990's, management agencies agreed that Lake Sturgeon could not recover naturally on their own. Re-connecting river habitat by improving fish passage and reintroducing Lake Sturgeon into the basin were primary actions needed to restore the population.</p>	<p>request any studies nor provide any indication that Lake Sturgeon were of any concern at the Project. Lastly, FWS has also not provided any evidence that Lake Sturgeon historically utilized the White River upstream of the Project dam.</p> <p>Since no information was provided to support this FWS request, NSPW researched existing lake sturgeon data for the White and Bad Rivers to include in the FLA. NSPW was able to locate the following documents:</p> <ul style="list-style-type: none"> A Great Lakes Indian Fish and Wildlife Commission (GLIFWC) report entitled "Name" (Lake Sturgeon) Project on the White River in Wisconsin during 2001" (https://glifwc.org/Fisheries/GreatLakes/Name%20Project%20during%202001.pdf) A 2003 Great Lakes Fishery Commission publication entitled "A Lake Sturgeon Rehabilitation Plan for Lake Superior" (https://www.glic.org/pubs/miso/2003_02.pdf) A FWS publication entitled "Status of the 2010 Lake Sturgeon Spawning Population in the Bad and White Rivers, Wisconsin" (https://meridian.allenpress.com/jfwmi/article-supplement/433037/pdf/10_3996022019-jfwmi-005_s177) A FWS Article entitled Population status and demographics of Lake Sturgeon in the Bad and White rivers, Wisconsin" (https://meridian.allenpress.com/jfwmi/article/10/2/442/433037/Population-status-and-demographics-of-Lake) <p>The 2001 GLIFWC report states "The area below the White River dam was likely the upper limit for spawning by Lake Sturgeon in the river because according to an historical account in the June 3, 1882 edition of the Ashland Press, a falls of 16 feet existed on the river at the present dam location." The study concluded that the physical habitat (substrate and depth) was suitable for Lake Sturgeon to spawn successfully during 2001 from the dam to downstream of the powerhouse.</p> <p>The 2003 Lake Sturgeon Rehabilitation Plan did not identify any specific measures for the White River, but rather gave general criteria to consider during hydroelectric project relicensing. These criteria included maintaining run-of-river flows, ensuring adequate flows within bypassed channels, and implementation of appropriate water regimes for Lake Sturgeon reproduction and survival. These considerations were addressed during the development of the final license application.</p> <p>The 2010 FWS study states, "However, it is uncertain whether Lake Sturgeon would historically ascend past the current dam site during spawning runs, as suitable spawning habitats are not present upstream of the dam." The study also indicates that there are suitable substrate and flow conditions for Lake Sturgeon located 1-2 km downstream of the dam.</p> <p>The 2019 FWS article states the following, "Spawning in the White River occurs 49 km from Lake Superior and immediately downstream of the White River hydrogenerating station, which has been a run-of-the-river operation from 1907 to present day. A natural falls existed at the site of the present-day dam, but it is uncertain whether Lake Sturgeon could or would ascend these falls before construction of the dam and hydrogenerating station."</p> <p>The information included in the aforementioned documents does not support the FWS assertion that upstream and downstream passage are necessary to provide access to historic Lake Sturgeon spawning areas present prior to the dam's construction. Regardless, the FWS has reserved fishway prescription authority under Section 18 of the Federal Power Act in comment 7.</p>
<p>FWS Comment 07/24/2024</p>	<p>Recommendation 5. Protection of Native Species and their Habitats The Service supports Northern States suggestion to develop and invasive species monitoring plan, but further recommends that management actions be implemented to prevent the spread of invasive species including the installation of signage and boat washing stations.</p> <p>Rationale: Invasive species often impact native species through competition for limited resources or displacement from natural habitats. Recreational users of natural resources unknowingly spread invasive species from site to site across the country by transporting them on equipment, such as boats and trailers. The installation of signage would educate recreational users of potential spread and impacts of invasive species and boat washing stations would prevent the spread of invasive species.</p>	<p>In Section 6.4.1.1 and Section 6.4.2.3 of Exhibit E of the FLA, NSPW proposed to develop an invasive species monitoring plan and conduct biennial monitoring over the term of the license. There is existing invasive species signage at the Boat Landing/Canoe Portage Take-out recreation site. The Licensee has proposed to maintain (or replace, if necessary) the existing signage throughout the term of the next license. As noted in section 8.3.4.1 of Exhibit E of the FLA, the use of the boat landing is limited. Due to the limited use of the site, and the presence of existing invasive species signage, the cost involved with establishment of a boat washing station, which would require installation of a new well to provide a clean water source for boat washing, is not warranted.</p>

US Fish and Wildlife Service License Recommendations and NSPW Responses

<p>6</p> <p>FWS Comment 7/24/2024</p>	<p>Recommendation 6. Agency Consultation It is recommended that the Licensee consult with the U.S. Fish and Wildlife Service (Service) Bureau of Indian Affairs (BIA), and Wisconsin Department of Natural Resources (WDNR) on matters affecting fish and wildlife resources and National Parks Service (NPS) and WDNR on recreational Use throughout the term of the new license. Rationale: Issue 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. ENERGY POLICY ACT OF 2005 Since January of 2001, the Department has exercised Section 18 of the FPA in accordance with its Mandatory Conditions Review Policy (MCRP), which provided license applicants and interested parties the opportunity to review and comment on the Department's fishway prescriptions. However, on August 8, 2005 Congress enacted the Energy Policy Act (EPA) of 2005 Pub. L. No. 109-58, which mandates new processes whenever the Department prescribes fishways pursuant to Section 18 of the FPA. On November 17, 2005, the Department published interim final regulations implementing EPA, 43 C.F.R. § 45.1 et seq., 70 Fed. Reg. 69804, which became effective upon publication in the Federal Register. Because the new procedures mandated by EPA effectively subsume or supersede the MCRP, the Department is no longer implementing the MCRP (70 Fed. Reg. 69804). Additionally, the Department is only reserving the Secretary's Section 18 authority in this licensing proceeding, so the Department will not provide hearing or alternative review processes at this time (43 C.F.R. § 45.1 et seq., 70 Fed. Reg. 69804). The Department will provide such processes if (and when) the Department exercises its reserved Section 18 authority during the term of the license issued in this proceeding. Interested parties may file reply comments in accordance with FERC's regulations, 18 C.F.R. § 4.34(b), and the Ready for Environmental Analysis Notice, which has yet to be issued on this proceeding.</p>	<p>Throughout the relicensing process, NSPW provided potentially interested parties the opportunity to consult and provide comments. In the FLA, NSPW proposed to consult with the FWS, the Bad River Tribe, and other appropriate natural resource agencies on matters affecting fish and wildlife or recreation as they showed interest during the relicensing process.</p>
<p>7</p> <p>FWS Comment 07/24/2024</p>	<p>Reservation of Fishway Prescription Authority The Department hereby submits the following reservation of Section 18 authority for inclusion in any license to be issued in this licensing proceeding, FERC No. 10853. "Pursuant to Section 18 of the Federal Power Act, as amended, the Department of the Interior, as delegated to the U.S. Fish and Wildlife Service, reserves the authority to prescribe the construction, operation and maintenance of fishways at the White River Hydroelectric Project, FERC No. 2444, including measures to determine, ensure, or improve the effectiveness of such fishways." Rationale: It should be noted that the USFWS is not exercising the Department's authority to prescribe fishways, but rather, is reserving its authority to prescribe fishways as may be deemed necessary during the term of the new license. The USFWS must reserve the authority to prescribe fishways as may be warranted for some unforeseen future need, such as a new species concern, technology, lack of adequate fish passage to meet resource management needs, or to improve the effectiveness of existing fishways.</p>	<p>Comment noted.</p>
<p>9</p> <p>FWS Comment 09/09/2023</p>	<p>The USFWS recognizes the White River as an important public waterway in Northwestern Wisconsin that is critical to the biological and recreational resources of the area, including resource and cultural needs of the Bad River Band of the Lake Superior Tribe of Chippewa Indians. A functional White River system has been identified by resource agencies and the Tribe as necessary for the continued recovery of the Lake Sturgeon. As such, the service has identified providing/facilitating upstream and downstream fish passage and maintaining river flows as being the highest priorities for the river system.</p>	<p>See response to Comment 4.</p>

Document Content(s)

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