State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
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June 26, 2025

Matt Miller, Xcel Energy
Environmental Analyst
1414 W. Hamilton Ave.,
P.O. Box 8,
Eau Claire, WI 54702
Sent via email: matthew.j.miller@xcelenergy.com

IP-NO-2024-2-N04372

RE: State Water Quality Certification for White River Hydroelectric Dam, Ashland and Bayfield Counties, White River, FERC Project Number P-2444

Dear Mr. Miller:

On August 6, 2024, the Wisconsin Department of Natural Resources (department) received your request for a State Water Quality Certification (WQC), under Chapter NR 299, Wis. Adm. Code, and Section 401 of the Federal Clean Water Act.

The White River Hydroelectric Project (the Project) is located on the White River, in the Town of White River, Ashland County and Town of Kelly, Bayfield County, Wisconsin. The Project is currently under review for re-licensing with the Federal Energy Regulatory Commission (FERC).

The department has reviewed the application for issuance of a FERC license to the existing Project and has made the determination that the Project complies with the State's water quality standards enumerated in s. NR 299.04, Wis. Adm. Code. Enclosed is the WQC, which approves your Project and lists the conditions which must be followed.

You are responsible for ensuring your project and associated operations meet various requirements of state law. Meeting state law includes contacting local and federal authorities to determine if they require permits or approvals for your project and associated operations.

Please read your certification carefully so that you are fully aware of what is expected of you. The certification contained here-in shall expire on the date of the expiration of the FERC license, or upon revocation by the department. This certification may be amended at any point in time.

As a condition of the State Water Quality Certification, state law requires that you:

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- Publish the enclosed certification as a Class 1 Notice, at your expense, in the primary newspaper for Town of White River.
- Obtain, and send to me, an affidavit of publication from the newspaper to provide proof of publication.
- File proof of publication with the Federal Energy Regulatory Commission

This State Water Quality Certification decision becomes final 30 days after date of publication unless a contested case hearing is requested. We will contact you only if a contested case hearing is requested. As a reminder, it is also your responsibility to obtain any necessary federal, state, or local authorizations for your Project.

If you have any questions about your permit, please call me at (920) 382-9975 or email me at Cheryl.laatsch@wisconsin.gov.

Sincerely,

Cheryl Laatsch, FERC Coordinator

Wisconsin Department of Natural Resources

STATE OF WISCONSIN **Water Quality Certification**

DEPARTMENT OF NATURAL RESOURCES IP-NO-2024-2-N04372

Northern States Power-Wisconsin (NSPW) has requested a State Water Quality Certification (WQC) from the Wisconsin Department of Natural Resources (department), pursuant to Chapter NR 299, Wis. Adm. Code, and Section 401 of the Federal Clean Water Act for the purpose of relicensing the White River Hydroelectric Project (Project).

The Project (P-2444) is located on the White River, in the Town of White River, Ashland County and Town of Kelly, Bayfield County, Wisconsin. The Project is currently under review for re-licensing with the Federal Energy Regulatory Commission (FERC).

The department has evaluated the proposal and determined that this activity will meet the standards found in s. NR 299.04, Wis. Adm. Code, and certification is granted, subject to the following conditions.

If you would like to know more about this project please contact Cheryl Laatsch at 920-382-9975, or Cheryl.Laatsch@wisconsin.gov. Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

CONDITIONS

1. All management plans required by this WQC shall be developed in consultation with the department, approved by the department with respect to compliance with state water quality standards, and submitted to FERC for approval.

   Justification: Under s. NR 299.05 (3)(d)1., Wis. Adm. Code the department is required to include a statement that there is a reasonable assurance that the activity will comply with the State's water quality standards. This consultation and submission requirement allows the state to be reasonably assured that water quality standards are being met.

2. Water Quality Monitoring Plan: In compliance with chs. NR 102, NR 104, and NR 299 Wis. Adm Code, the licensee shall develop a Water Quality Monitoring Plan. The Plan shall incorporate how the licensee will document compliance with State's water quality standards.

   Justification: Under s. NR 299.05 (3)(d)1. Wis. Adm. Code, the department is required to include a statement that there is a reasonable assurance that the activity will comply with the State's water quality standards. The Water Quality Monitoring Plan demonstrating compliance with the water quality standards in chs. NR 102, NR 104, and NR 299, Wis. Adm. Code, provides reasonable assurance that the State's water quality standards are being met.

3. Aquatic Invasive Species Management Plan: The licensee shall develop an Aquatic Invasive Species Plan. The Plan shall identify how the licensee will comply with ch. NR 40, Wis. Adm. Code. The Plan shall also incorporate best management practices, such as decontamination protocols, to minimize the transport of invasive species.

   Justification: Invasive species threaten the "protection and propagation of a balanced fish and other aquatic life community" under the "Fish and other aquatic life" designated use in s. NR 102.04 (3), Wis. Adm. Code. In addition, pursuant to s. NR 103.03 (2)(f)3., Wis. Adm. Code, the water quality certification must prevent conditions conducive to the establishment or proliferation of nuisance organisms in order to protect existing wetland habitat and ecosystems.

4. Debris Management Plan: The licensee shall develop a Debris Management Plan. The Plan shall provide methods and procedures for how debris will be removed and managed as it accumulates at the dam.

   Justification: This condition targets compliance with chs. NR 40 and NR 500, Wis. Adm. Code, and protects the public rights in navigable waters under s. 31.02, Wis. Stats and s. NR 299.04 (1)(b)6 Wis. Adm. Code. This condition also facilitates compliance with s. NR 102.04 (1)(b), Wis. Adm. Code, which prohibits the accumulation of floating or submerged debris in amounts that interfere with public rights in waters of the state.

5. Endangered and Threatened Aquatic Species Management Plan: The licensee shall develop a Listed Species Management Plan. The Plan shall include an annual review of the department's endangered resources portal for the presence of listed species or communities occurring within the FERC-approved project boundary. The Plan shall include options to minimize disturbance to listed species and their habitat affected by the facility or its operations in compliance with s. 29.604, Wis. Stats.

   Justification: Under s. 29.604, Wis. Stats, endangered and threatened species are protected. Additionally, s. NR 103.03 (f), Wis. Adm. Code, is intended to protect existing habitat and populations of wetland animals.

6. Recreation Management Plan: The licensee shall develop a Recreation Management Plan. The Plan shall identify FERC approved recreational features that are owned or operated by the licensee. The Plan shall provide a schedule for inspections and repairs to such existing and future FERC approved recreational features that are owned or operated by the licensee.

   Justification: Section 31.02, Wis. Stats, and s. NR 299.04 (1)(b)6, Wis. Adm. Code, protect the public's interest in navigable waters, including recreational opportunities. Under s. NR 102.04(5)(a), Wis. Adm. Code, all surface waters of the state shall be suitable for supporting the recreational designated use. The State of Wisconsin holds all navigable waters within the territorial jurisdiction of the State in trust for the benefit of the public. The rights include traditional recreational uses such as hunting, fishing, swimming, and boating. See Muench v. Public Service Comm., 261 Wis. 492 (1952).

8. Operation Compliance Monitoring Plan: The licensee shall develop an Operation Compliance Plan that includes: (1) a detailed description of how the license will maintain, monitor, and document compliance with the operational requirements of any new license; (2) a description of the gages and other measuring devices that would be used to monitor compliance with license requirements; (3) procedures for maintaining and calibrating monitoring equipment; and (4) standard operating procedures to be implemented outside of normal operating conditions, such as scheduled and unscheduled facility shutdowns.

   Justification: Under s. NR 299.05 (3)(d)1., Wis. Adm. Code, the department is required to include a statement that there is a reasonable assurance that the activity will comply with the State's water quality standards. The Operation Compliance Monitoring Plan demonstrating compliance with the water quality standards in chs. NR 102, NR 103, NR 104, and NR 299, Wis. Adm. Code, as well as s. 31.02, Wis. Stats., provides reasonable assurance that the state's water quality standards are being met. Dam operations can affect several water quality criteria, including dissolved oxygen and temperature. Section NR 102.51, Wis. Adm. Code, also provides for biological assessments to determine the attainment of designated uses. Dam operations can adversely affect habitat and fish populations. Consistent hydrologic regimes and the maintenance of minimum flows near as possible to natural conditions positively influences habitat quality downstream of affected facilities.

9. The licensee shall allow the department to inspect the Project at any time upon reasonable advanced notification to monitor compliance with this WQC and applicable laws.

   Justification: On-site inspection is a critical element to gather necessary information for water quality certification compliance and quality control and assurance of data provided by the applicant. This authorization is required pursuant to s. NR 299.05 (3)(d)2.c., Wis. Adm. Code.

10. Your acceptance of this WQC signifies that you have read, understood and agreed to follow all conditions of this certification.

11. The Project shall conform to the standards for floodplain and shoreland development contained in chs. NR 115, NR 116, NR 117, Wis. Adm. Code and as may be implemented via local ordinance, as long as these requirements do not conflict with FERC license requirements.

12. This WQC is valid for the term of the license.

13. This WQC may be updated or modified throughout the term of the license as provided under 40 CFR § 121.10.

FINDINGS OF FACT

1. The White River Project is located on the White River near the Town of White River, Ashland County, and Town of Kelly, Bayfield County.

2. The Project works consist of (1) a 46-foot high and 775-foot long earthen and concrete dam that includes a left earthen embankment, an intake structure, a gated spillway section and a right earthen embankment; (2) a reservoir with a maximum surface area of 39.9 acres and a maximum gross storage capacity of approximately 297 acre-feet at an elevation of 711.6 feet National Geodetic Vertical Datum 1929 (NGVD); (3) a 1,346-foot long conveyance system from the intake to the powerhouse consisting of a 7-foot diameter conduit, a 16-foot diameter surge tank, and two 5.5-foot diameter penstocks; (4) a concrete powerhouse that houses two generating units with a total authorized installed capacity of 1,200 kilowatts (kW); (5) a 2.4 kilovolt (kV), 220-foot long underground transmission line from the powerhouse to the non-project substation containing the 1,000 kVA, 69/2.4 kV 3-phase step-up transformer; and (6) appurtenant facilities.

3. The Project has an average head of 49 feet. It consists of a 46-foot-high dam and 775-foot long earthen and concrete dam that includes a left earth embankment, an intake structure, a gated spillway section and a right earth embankment. Water is conveyed from the intake structure to the powerhouse through a 1,346-foot-long conveyance system consisting of a 7-foot diameter conduit, a 16-foot diameter surge tank, and two 5.5-foot diameter penstocks. The powerhouse contains 2 generating units and a short underground transmission line from the powerhouse to a non-project substation. The minimum hydraulic capacity of the Project is 50 cfs (Unit #2) and the maximum hydraulic capacity of the powerhouse is 350 cfs.

4. The Project operates as a run-of-river facility, for the purpose of generating hydroelectric power, where the discharge measured immediately downstream of the Project tailrace approximates the sum of inflows into the Project reservoir. The reservoir is operated between elevations 710.4 and 711.6 feet National Geodetic Vertical Datum 1929 (NGVD). A minimum flow of 16 cubic feet per second (cfs) or inflow, whichever is less, is released into the approximately 1/4 mile-long bypass reach at all times.

5. NSPW proposes to continue to operate the reservoir between reservoir elevations 710.4 and 711.6 feet NGVD. NSPW also will continue to release a minimum flow of 16 cfs, or inflow, whichever is less, into the approximately ¼ mile-long bypass reach to protect aquatic resources.

6. The energy from the project is routed locally to NSPW's rural distribution system or into the interconnected transmission system. In both instances, NSPW is the entity receiving the power generation.

7. NSPW requested a 401 WQC or wavier letter from the department on August 6, 2024, under s. NR 299.03, Wis. Adm. Code, and Section 401 of the Federal Clean Water Act.

8. FERC will issue an Environmental Assessment. As of the date of this WQC, FERC has not finalized the EA nor issued a new license.

9. Under s. NR 102.04, Wis. Adm. Code, this section of the White River is a classified as a coldwater river system.

10. The department and the applicant have completed all procedural requirements. The Project as authorized will comply with all applicable requirements of s. 1.11 and ch. 281, Wis. Stats., Section 401 of CWA, and chs. NR 102, 103, 150 and 299 of the Wis. Adm. Code.

11. Based on the review of the applicant's proposal and the above findings, the department concludes that there is a discharge from this project. There is reasonable assurance that operation and maintenance of dam as proposed by the application will not cause a violation of State's water quality standards, and the dam will be in compliance with sections 301, 302, 303, 306, and 307 of the Federal Clean Water Act, P.L 92-500, as amended, and other appropriate requirements of state law. The department has made the determination that the proposed activity will comply with the State's water quality standards enumerated in s. NR 299.04, Wis. Adm. Code, s.283.01(6m), Wis. Stats. subject to the WQC conditions.

12. The Project will not adversely impact wetlands.

13. The department has determined that an Environmental Assessment for WEPA compliance is not necessary.

14. Provided the Project complies with the conditions of this WQC, the operation, and maintenance of the Project is in the public interest considering ecological, aesthetic, economic, and recreational values as referenced per state and federal law in s. NR 299.04 Wis. Adm. Code.

15. The department will participate in the federal FERC licensing process as appropriate.

CONCLUSIONS OF LAW

1. The department has authority to issue the WQC under ch. NR 299 of the Wis. Adm. Code

NOTICE OF APPEAL RIGHTS

To request a contested case hearing pursuant to s. 227.42, Wis. Stats., and s. NR 299.05 (5) Wis. Adm. Code you have 30 days after the decision is posted for public notice to serve a petition for hearing on the Secretary of the Department of Natural Resources. A request for a contested case hearing shall include a written statement giving specific reasons why the proposed activity violates the standards under s. NR 299.04 (1)(b) Wis. Adm. Code and provide specific information explaining why the petitioner's interests are adversely affected by the department's determination. The request for hearing shall also include a written statement specifying that the petitioner will appear and present information supporting the petitioner's objections in a contested case hearing.

If you believe you have a right to challenge this decision through a judicial review, you should know that Wisconsin statutes and administrative rules established time periods within which requests to review department decisions must be filed. For judicial review of a decision pursuant to ss. 227.52 and 227.53, you have 30 days after the department's determination becomes final under s. NR 299.05(7)(a), Wis. Adm. Code. Such a petition shall name the Department of Natural Resources as the respondent.

Date June 26, 2025

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary

Cheryl Laatsch, FERC Coordinator

Wisconsin Department of Natural Resources