

144 FERC ¶ 62,176  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Black Bear Hydro Partners, LLC

Project No. 2534-095

ORDER APPROVING OPERATIONS AND FLOW MONITORING PLAN

(Issued August 27, 2013)

1. On July 9, 2013, Black Bear Hydro Partners, LLC, licensee for the Milford Project No. 2534, filed an Operations and Flow Monitoring Plan pursuant to ordering paragraph (I) of the Order Approving Fish Passage Design Drawings under Articles 407 and 408.<sup>1</sup> The project is located on the Penobscot River in Penobscot County, Maine.

**Background**

2. Ordering paragraph (I) requires the licensee to file, for Commission approval, an Operations and Flow Monitoring Plan. The plan is required to include: (1) a detailed description of how the impoundment level and flows will be measured or calculated; (2) a maintenance plan; (3) a provision to make flow and impoundment elevation data publicly available; (4) a provision to provide minimum flows at all times; (5) a description of how fish passage flows will be provided during the passage seasons; (6) a list and description of maintenance activities which would lead to temporary modification of run-of-river operation; (7) a provision to notify the Commission, the resource agencies, and the Penobscot Indian Nation (Nation) when deviations from license requirements occur; and (8) a provision to provide reports and data to the resource agencies and the Nation. The article also requires the licensee to develop the plan in consultation with the National Marine Fisheries Service (NMFS), the U.S. Fish and Wildlife Service (FWS), the Nation, Maine Department of Inland Fisheries and Wildlife (Maine DIFW), Maine Department of Marine Resources (Maine DMR), and the Maine Department of Environmental Protection (Maine DEP).

**Licensee's Plan**

3. The plan states the project will be operated comparably to the licensee's other projects within the lower Penobscot River Basin. That is, a roving operator will visit the project several times a day to monitor conditions, including headpond elevation as measured by pressure transducers and staff gages, and adjust or calibrate equipment

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<sup>1</sup> *Black Bear Hydro Partners, LLC*, 141 FERC ¶ 62,025 (2012).

accordingly. The plan also states that the project is automated with additional adjustments made by the operator.

4. The plan describes how the minimum flow requirements will be met with flows passing through the powerhouse, sluice gate, over flashboards, by releases from the fish passage facilities, and flow over the dam while flashboards are being replaced after failure. The plan also describes how the fish passage facilities will be adjusted to remain consistent with design parameters and provide appropriate apportionment of flows for best passage effectiveness.

5. While visiting the project, the roving operator will record headpond elevation, turbine gate settings, generator output, and fish passage settings and this information will be made available for inspection by the Commission, the agencies, and the Nation. The plan also states a public website is being developed which would include daily flow reports. In addition, the plan states the licensee will notify the Commission, the agencies, and the Nation following a deviation from reservoir level, run-of-river operation, minimum flow, or fish passage flow requirements. In its plan, the licensee also provided a list of maintenance activities, incorporated into the project's water quality certification, which may lead to temporary modification of run-of-river and minimum flow requirements.

### **Agency Consultation**

6. On June 4, 2013, the licensee provided a draft version of the plan to the NMFS, the FWS, the Nation, the Maine DIFW, the Maine DMR, and the Maine DEP. None of the agencies provided comments on the plan.

### **Discussion**

7. The Operations and Flow Monitoring Plan was made a requirement of the order approving the fish passage designs to ensure that the project would remain compliant with reservoir elevation and flow requirements upon installation of the new facilities. The Commission also desired to enhance communications between the licensee and the Commission, the agencies, the Nation, and the public.

8. The licensee's plan explains how the project will be operated in compliance with headwater elevation, minimum flow, and fish passage requirements. Furthermore, the plan includes a description of how the mandatory flows will be met at all times, including flood events and flashboard repairs as well as describing likely, though infrequent maintenance activities requiring the temporary deviation from operational constraints. In addition, the plan includes provisions for providing notifications and operations data to the Commission, the agencies, and the Nation. We have reviewed the licensee's Operations and Flow Monitoring Plan and determine that it complies with the

requirements of ordering paragraph (I) of the Order Approving Fish Passage Design Drawings under Article 407 and 408 and should be approved.

The Director orders:

(A) The Operations and Flow Monitoring Plan filed on June 14, 2013, by Black Bear Hydro Partners, LLC for the Milford Project No. 2534 is approved.

(B) This order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in section 313(a) of the Federal Power Act, 16 U.S.C. § 8251 (2006), and the Commission's regulations at 18 C.F.R. § 385.713 (2013). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

Kelly Houff  
Chief, Engineering Resources Branch  
Division of Hydropower Administration  
and Compliance

Document Content(s)

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