

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Consolidated Water Power Company

Project No. 2192-030

ORDER STAYING ORDER AMENDING LICENSE TO
AUTHORIZE LAND EXCHANGE

(Issued April 25, 2007)

1. On November 17, 2006, the Commission issued an order amending the license for Consolidated Water Power Company's (Consolidated) 6,232-kilowatt Biron Hydroelectric Project No. 2192 (Biron Project) to authorize a land exchange.¹ On December 18, 2006, Consolidated timely filed a request for rehearing, and George Mead and Susan Feith timely filed a motion for clarification or, in the alternative, for rehearing of the Order. The requests for rehearing are pending.² The Biron Project is located on the upper Wisconsin River in Wood and Portage Counties, Wisconsin.

2. The November 17th Order authorized the conveyance of ownership in fee, subject to flowage rights, of 26 lots located on the left (south) side of the project's reservoir to the lots' leaseholders. (The 26 lots of land are located between North Biron Drive and the southern shoreline of the Biron Project's reservoir.) In exchange, the order requires Consolidated to acquire lands, also located on the south side of the reservoir, including lands underlying the entire roadbed of North Biron Drive and its right-of-way between the east side of lot 21 and the north-south section of County Trunkline Highway U. Pursuant to the November 17th Order, a portion of this area is to be maintained as a 100-foot-wide no-development corridor except for specific enumerated items related to recreation.

¹ *Consolidated Water Power Company*, 117 FERC ¶ 61,208 (November 17th Order).

² The 30-day deadline for Commission action was tolled by a Secretary's notice issued on January 17, 2007.

3. However, by letter dated April 5, 2007, the Regional Engineer, Division of Dam Safety and Inspections – Chicago Regional Office, determined that significant flooding could occur on the south side of the Wisconsin River (including areas involved in the land exchange) at flow levels well below the Inflow Design Flow³ for the project, and that the direction, extent, and potential for life loss and significant damage in the area has not been determined. The letter requires Consolidated to provide, within 60 days of the date of the letter, a detailed plan and schedule to address these matters as well as the planning, design, and construction of measures necessary to provide the necessary spillway capacity to pass the project's Inflow Design Flow. Under these circumstances, we will stay the November 17, 2006 Order pending further action by the Commission, so that we can ensure that life, health, and property are protected before allowing the lands to be removed from the project boundary.

The Commission orders:

The order amending the license for the Biron Hydroelectric Project No. 2192 to authorize a land exchange, which was issued on November 17, 2006, is stayed, pending further action by the Commission.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³ Inflow Design Flows are the flows above which the incremental increase in water surface elevation due to the failure of a dam would not constitute an additional threat to downstream life and property.