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March 6, 2008

Ms. Kimberly D. Bose
Federal Energy Regulatory Commission
888 First Street North East
Washington, DC 20426

**Re: Badger Rapide Croche Hydroelectric Project, Project No. 2677
Scoping Comments**

Dear Secretary Bose:

Enclosed for filing in the above referenced proceeding is American Whitewater's COMMENTS ON SCOPING DOCUMENT on the Badger Rapide Croche Hydroelectric Project Relicensing. Copies of this filing have been served on all parties of record to this proceeding.

Thank you for your assistance. Please call me at 425-417-9012 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. O'Keefe'.

Thomas O'Keefe, PhD
Acting Midwest Stewardship Director

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of Kaukauna Utilities)	Project No. 2677-019
)	Badger Rapide Croche Hydroelectric
)	Project
)	
Application for New Major License)	Scoping Comments of American
)	Whitewater
)	

AMERICAN WHITEWATER'S SCOPING COMMENTS IN THE BADGER RAPIDE
CROCHE HYDROELECTRIC PROJECT LICENSING PROCEEDING

I. Introduction

By notice dated February 5, 2008, the Federal Energy Regulatory Commission (hereafter Commission) solicited Scoping Comments on the City of Kaukauna Utilities (hereafter Kaukauna) application for a new license to operate the Badger-Rapide Croche Project, FERC No. 2677-019.

II. Interest of American Whitewater

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954. We have over 6,500 members and 100 local-based affiliate clubs, representing approximately 80,000 whitewater paddlers across the nation. American Whitewater's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. As a conservation-oriented paddling organization, American Whitewater has an interest in the rivers throughout the Midwest. A significant percentage of American Whitewater members reside in Wisconsin—a short driving distance from this watershed for recreation. Federal actions that affect flow, access to the river and navigation may potentially adversely impact opportunities for American Whitewater members to utilize the Fox River. American Whitewater members use and enjoy the Fox River in the areas surrounding the Project for recreational and aesthetic purposes, including but not limited to whitewater recreation, fishing, viewing, and enjoyment of the outdoors. The Applicant's new license could adversely affect those interests.

III. Comments

American Whitewater has an interest in opportunities for river-based recreation in the reach of the natural river channel bypassed by this project. Our recreational interests include three primary elements: sufficient flows for whitewater recreation, access to the

water, and publicly accessible information on flows and project operations. Information presented in Kaukauna's Application for a New Major License¹ is insufficient to fully evaluate project impacts and we request that the Commission direct the applicant to provide additional information for the purposes of developing a complete record on which to base decisions in this proceeding.

Specific deficiencies in the application include the following and are described in additional detail below:

- Review of existing recreational opportunities incomplete: We could find no discussion of river-based recreation we know currently occurs in the natural river channel bypassed by the project.
- Impacts of the project on river flows are not provided: All flow data presented are for areas upstream and downstream of project. A more complete evaluation of impacts of the project on the flow regime in the natural river channel bypassed by project is necessary, and is particularly important given apparent increased capacity proposed for the new project and ability to divert additional flow.
- No quantified evaluation of instream flow needs for recreation is provided: A recreational flow study is necessary to evaluate project impacts on existing and future recreational opportunities.
- The Commission must first examine recreational opportunities and mitigation measures, including public access to natural river channel, that have a direct project nexus before considering off-project mitigation.

Existing Recreation

The report on Recreation Resources is deficient in that no mention is made of river-based recreation in the reach of river directly impacted by the project.² The discussion is primarily focused on recreation sites providing shore-based activities upstream or downstream of the project including Central Park, Hydro Park, 1,000 Islands Conservancy, and Rapide Croche Recreation Site. The application notes that "water-based activities are generally associated with hydroelectric projects" and states that "this is the case with the Project"³ but goes on to describe recreation associated with use of locks, that have historically provided passage for larger boats around the reach associated with the project, and makes no mention of paddlesports or activities in the natural river channel that we know to occur. Recreation surveys were conducted at City Boat Launch (on the impoundment), Marina Bar (downstream of the Rapide Croche impoundment), and Rapid Croche Dam picnic/shoreline area, but included no assessment or acknowledgment of in-river use⁴

In recent months several members of our organization have contacted us regarding this project and potential impacts to existing recreational opportunities on the river. Each spring paddlers enjoy the flows that exceed generation capacity and spill into the natural

¹ License Application, eLibrary Accession Number 20070905-0128 and associated documents

² At page E-24, License Application, eLibrary Accession Number 20070905-0132

³ At page E-25, License Application, eLibrary Accession Number 20070905-0132

⁴ At page E-26, License Application, eLibrary Accession Number 20070905-0132

river channel from the Kaukauna Dam. Although this reach is short, natural features of the river bed make the river attractive for local whitewater paddlers. These features should be described in more detail. Several members have commented that the reach is especially important because it provides convenient “close-to-home recreation” for those living in Appleton, Green Bay, and neighboring communities.

Impacts of the Project on River Flows

Based on information provided in the license application we have concerns with the impacts of the new project on instream flows and corresponding impacts to recreation. In Table B-6 of the license application,⁵ Kaukauna notes that the combined maximum discharge capacity for the Old Bader and New Badger plants is 3096 cfs with minimum flow at 639 cfs through the Old Badger plant. Kaukauna proposes to install a new 7 megawatt powerhouse with two horizontal-Kaplan “S” type turbines that combined can utilize a maximum flow of 5260 cfs and operate at a minimum flow of 570 cfs.

While we understand that the project is operated in a run-of-river mode and additional diversion capacity may have no impact on flows upstream or downstream of the project, our concern is that it will limit spills from the Kaukauna Dam which currently provide a valued recreational opportunity in the natural river channel bypassed by the project. Impacts of this potential increased diversion are not discussed in the application which only includes gauge data for the reach upstream and downstream of the project. In fact, the application states that because the Badger plants are run-of-river, “the project will not affect the quantity of water available for downstream uses”⁶ This statement that references the reach downstream of the project fails to recognize the fact that the project does affect the reach that is bypassed by the project which is of direct interest to our membership.

Our review of the discharge duration curve indicates approximately 65% exceedance for flows of 3000 cfs (corresponding to approximate existing diversion capacity) and 25% exceedance for flows of 5250 cfs (corresponding to approximate future diversion capacity).⁷ Given Kaukauna’s stated intention of operating the project so that all flow is passed through the project powerhouses during periods of low-to-average flow,⁸ this would imply a substantial reduction in instream flows through the natural river channel with a corresponding impact on instream recreation. To more fully understand the implications of this increased capacity we request that the Commission direct Kaukauna to provide additional information regarding specific changes to the flow regime in the natural river channel bypassed by the project and corresponding impacts to river-based recreational opportunities. This will require a quantitative evaluation of instream flow needs for recreation and hydrologic analysis of the current and proposed flow regime in the reach bypassed by the project (see below).

⁵ At page B-6, License Application, eLibrary Accession Number 20070905-0129

⁶ At page E-7, License Application, eLibrary Accession Number 20070905-0132

⁷ Appendix 4, License Application, eLibrary Accession Number 20070905-0132

⁸ At page B-1, License Application, eLibrary Accession Number 20070905-0132

Instream Flow Needs for Recreation

To develop a more complete understanding of existing recreational opportunities at the project, changes that may result from future project operations, and opportunities to enhance recreational opportunities as consistent with the Federal Power Act, a clear need exists for a recreational flow study. The goal of the flow study would be to determine instream flow needs for recreation in the reach of the natural river channel bypassed by the project.

There are several approaches to a flow study and we are willing to work with the applicant and other stakeholders to develop an approach that best suits this proceeding and does not unduly delay licensing. In their overview of methods for recreational flow studies, Whittaker et al. (2005) note that a diversity of situations exist from cases where there is clearly recreation use that is flow dependent to cases where recreation is only marginally affected by flows or project operations.⁹ Based on feedback from our membership and information on the record in this proceeding provided by members of the paddling community who have filed scoping comments we know that the project has an impact on flow-dependent recreation. For this reason preliminary desktop analysis and general reconnaissance, the first two steps in a progressive study approach, can be bypassed and we can proceed directly to a quantitative evaluation of instream flow needs for recreation.

The specific objective of a recreational flow study is to quantitatively define the range of flows for whitewater recreation and to determine the quality and type of experience that different flows provide. Specifically there is a need for *evaluative* information. Only providing *descriptive* information on flow needs would be insufficient to tie data to decisions. Evaluative information will allow us to examine not just the status but the needs of river-based recreational opportunities, which will in turn inform Commission decisions when developing a new license for the project.

Commission staff will ultimately need to find balance among power generation, fisheries, natural resources, and recreation. Adequate data are essential to an informed decision. In our experience with other projects, difficulties in finding balance and associated delays in licensing are related to a lack of data. To this end, whitewater recreation is an important consideration for licensing of this project and we need the quantitative data to effectively evaluate it.

In the case of this project we believe the most efficient approach to a flow study may be available this spring when opportunistic spills provide a chance to collect data from those using the river for recreation. American Whitewater can assist with study design and we would also recommend involving staff from the Milwaukee office of the National Park Service Rivers and Trails Conservation Assistance Program who have a long history of

⁹ For an overview of methodology utilized in whitewater flow studies see Whittaker, D. B. Shelby, and J. Gangemi. 2005. Flows and recreation: A guide to studies for river professionals. National Park Service and Hydropower Reform Coalition. The report is available from the National Park Service <<http://www.nps.gov/ncrc/programs/hydro/flowrec.htm>>.

assisting utilities in developing recreational flow studies in the region. To take advantage of opportunities this spring and collect data in a timely manner that does not unduly delay this proceeding would require all parties to commit to working together within the next few months. Immediate installation of a staff gauge would allow paddlers to quantify flows during their runs this spring who could then self-report their experiences on an internet-based flow survey. This approach was successfully used on the Mystic Lake Hydroelectric Project (P-2301), where we worked cooperatively with the utility on the whitewater flow study.¹⁰ American Whitewater is prepared to assist in this effort as we believe it represents the most cost-effective and time-efficient means of collecting necessary data. Another approach used by many utilities is to hire third party consultants to develop the study, analyze the data, and report results. We are happy to provide recommendations on this approach.

Protection, Mitigation, and Enhancement of Recreation

Under the Federal Power Act the Commission has a clear mandate for protecting and enhancing recreational resources at the hydropower projects it licenses¹¹. Significantly, the language clearly states that the public's interest in recreation will be given equal consideration to power generation, and that licensed projects will include a comprehensive plan for the protection, mitigation, and enhancement of beneficial public uses including recreation. The Commission's mandate for providing recreational resources at hydropower projects is further defined in Commission Order 313 (30 FR 16197), which states:

The Commission believes that irrespective of the requirements of their licenses, licensees whose projects comprise land and water resources with outdoor recreational potential have a responsibility for the development of those resources in accordance with area needs, to the extent that such development is not inconsistent with the primary purpose of the project. All licensees will therefore be encouraged to submit for Commission approval and incorporation into their licenses an appropriate recreational plan.

Utilities across the nation have embraced the importance of recreation and the hydropower trade group National Hydropower Association (NHA)¹² notes that, "recreation is perhaps hydropower's most visible and publicly driven benefit... These activities also contribute significantly to local and regional economies and greatly improve the quality of life for those who take advantage of these recreational opportunities."

¹⁰ The success of this cooperative approach became apparent with the Commission's decision to relicense this project earlier than scheduled as the first one under the new Integrated Licensing Process proving that a cooperative approach to study design can be effective.

¹¹ Section 4 (16 USC §§ 797) and 10 (16 USC §§ 803) of the Federal Power Act

¹² <http://www.hydro.org>

At this specific project Kaukauna proposes to donate \$200k for the City's Development of Hydro Park, with the city responsible for operations and maintenance¹³ While this is likely a worthy community project we are concerned that other protection, mitigation, and enhancement measures that have a direct nexus to project operations and impacts have not been fully considered.

While the project operates as run-of-river subject to flows provided by the Army Corps of Engineers and does not have significant storage capacity, we believe there are opportunities to provide scheduled whitewater recreational opportunities by shutting down the generators for periods of time when flow can be restored to the natural river channel. This approach has been successfully used on projects like the Big Fork Project (P-2652) where flows are diverted back into the river on scheduled days if a minimum project inflow trigger suitable for whitewater recreation is met.¹⁴ This approach provides a significant opportunity to enhance recreational opportunities at the project and will be important if new facilities do in fact divert additional water from the channel effectively limiting the existing opportunities.

In an apparent attempt to discount the need for measures addressing whitewater recreation, Kaukauna notes in reply comments that a previous evaluation of sites for a potential whitewater park conducted by a consultant found this to be an unsuitable reach for development of such a facility.¹⁵ However, the two primary reasons the consultant reached this conclusion were the lack of existing public access and flow availability (i.e. the river channel was completely dewatered during the site visit). These findings directly point to the need to address flows and public access in this proceeding. Whitewater boating is a place-based activity; paddling destinations are not interchangeable. The Commission generally recognizes this by requiring on-site mitigation of recreational impacts, and by not allowing the elimination of recreational opportunities because that use exists elsewhere.

In addition to instream flows, recreation needs also include access to the river and availability of flow information in the natural river channel bypassed by the project. Access is necessary under the Lawe Street Bridge where paddlers are currently "jumping the fence" to access the river. A take-out area is also necessary to fully utilize this resource. The Wisconsin Department of Natural Resources 1991 Lower Fox River Basin Water Quality Management Plan¹⁶ includes 7 goals one of which is "develop a blend of public and private shoreline uses that include adequate public access." Opportunities to meet this need should be further explored as part of this license proceeding. In addition there may also be opportunities to mitigate for past channel modifications while

¹³ At page D-3, License Application, eLibrary Accession Number 20070905-0132

¹⁴ See Article 411 in Order issuing new license re PacifiCorp's Bigfork Proj-2652, eLibrary Accession Number 20030725-3011; and Progress Report of Pacificorp under P-2652. License Article 411, Final Whitewater Boating Feasibility Study and Recommendation for Bigfork, eLibrary Accession Number 20070123-5085

¹⁵ Kaukauna Utilities' reply comments to the motion to intervene and comments re Badger-Rapide Croche Hydroelectric Project under P-2677, eLibrary Accession Number 20080305-0077

¹⁶ Wisconsin Department of Natural Resources. 1991. Lower Fox River Basin Water Quality Management Plan. 1991. PUBL-WR291-91-REV.

enhancing features for whitewater boating through placement of boulders in the natural river channel. Before fully exploring these and other potential mitigation measures however, a more complete review of recreational flow needs and impacts of current and future project operations need to be clearly quantified

Conclusion

In summary we request that the Commission direct the applicant to provide additional information that will enable a more complete review of this project and its impacts. Specifically, information on existing river-based recreation needs to be provided, impacts of the project and proposed future operations on instream recreation must be quantified, a quantitative evaluation of instream flow needs for recreation must be provided, and recreational mitigation measures with a direct nexus to project impacts must be fully considered and evaluated. We look forward to working with the applicant and other stakeholders to address the information gaps in this proceeding.

Respectfully submitted this 6th day of March 2008,

Thomas O'Keefe, PhD
Acting Midwest Stewardship Director
American Whitewater
3537 NE 87th Street
Seattle, WA 98115

cc:
Service List

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

City of Kaukauna Utilities)
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_____)

Project No. 2677-019
Badger Rapide Croche Hydroelectric Project,

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated this 6th day of March 2008

Carla Miner
American Whitewater
Stewardship Assistant

Service List for P-2677-000 City of Kaukauna, Wisconsin

Contacts marked ** must be postal served

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Document Content(s)

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