

Mystic Lake Hydroelectric Project FERC No. 2301
Conference Call – Mystic Stakeholders
January 18, 2006
PPL Montana

Attendance:

Jon Jourdonnais (PPLM)	Chris Levine (MT DEQ)
Dave Kinnard (PPLM)	Dan Brewer (USFWS)
Frank Pickett (PPLM)	Ginger Gillin (GEI)
Brent Mabbott (PPLM)	Tyler Haddix (GEI)
Liz Thomas (Preston Gates Ellis, LLP)	Kristi Overberg (GEI)
Jerry Bird (USFS)	Nancy Johnson (APLE)
Justin Jiminez (USFS)	Jeff Frost (REC Resources)
Gerrish Willis (USFS)	Bruce Bugbee (APLE)
Jeff Gildehaus (USFS)	Jim Shive (Legacy)
Barb Pitman (USFS)	Steve Hocking (FERC)
	Keith Brooks (FERC)

Purpose:

FERC presented general guidelines and principles for proposing PM&E measures. FERC staff can only provide general guidance but cannot say with certainty what the Commission will or will not accept in the License.

Summary of Discussion:

Two methods to propose PM&E measures*:

- 1) Included in the license
 - a. via PLP
 - b. via settlement agreement
- 2) Other agreement made outside of the license. FERC has no authority on agreements outside of the license.

*PPL Montana will be including proposed PM&E measures in the PLP, which will be filed with FERC on June 1, 2006.

General Guidelines and Principles for developing PM&E measures to be incorporated into the license:

1. PM&E must have a clear nexus to a Project resource(s) or Project effect
2. PM&E needs a certain level of specificity
 - a. Avoid generic (e.g. improve wildlife)
 - b. Provide detail such that the plan of action is clear, resources involved are indicated, determination of compliance by FERC is measurable and enforceable
 - i. Can include goals and objectives, but must be able to measure compliance of PM&E measure
 - c. Adaptive management – incorporate adaptive management provisions within a more detailed work plan, plan should not simply be adaptive management.

3. PM&E funding to third parties
 - a. Problems in the past originate from:
 - i. Lack of specificity
 - ii. Funds are speculative for unforeseen events
 - iii. Time frame and purpose of funding is unclear

PPLM plans to develop an interagency MOU for Mystic providing details of funding and non-FERC jurisdictional provisions out of PM&E work plans and separate from the License.
4. PM&E cost caps
 - a. FERC can add a provision to go back and override cost cap placed in PM&E to achieve measure issued in the license. *(this should not be an issue with the Mystic Project)*
5. PM&E ongoing operation and maintenance
 - a. If licensee is responsible for PM&E measure on a long-term basis, FERC may require the FERC boundary be extended to include the physical asset or structure (as long as a clear nexus to project resource or effect) thus under the responsibility of the licensee for operation and maintenance
 - i. Licensee can still subcontract operation and maintenance of an area describe in 5a.
6. PM&E Plans
 - a. PM&E plan can be developed pre-licensing in PLP and final licensing application, or post-licensing
 - i. PPLM's goal is to develop 5 year work plans for resource PM&E measures to include in the PLP and Final license Application
7. Project baseline defined by FERC
 - a. Current existing condition: PM&E measures are developed for existing conditions (FERC baseline)
 - b. Pre-project information can be included in the Project EA but FERC will not base PM&E requirements on pre-Project conditions
8. Mandatory conditioning authority regarding Mystic Project
 - a. 4(e) conditions
 - i. Whatever is considered related to Federal Reservation (within the boundary) and a legitimate 4(e) condition proposed by the USFS, FERC will include in the license.
 - ii. USFS 4(e) conditions do not have to demonstrate clear nexus or specificity for PM&E measures at FERC.
 - b. MDEQ 401 Water Quality Certificate
 - i. FERC will attach 401 certification conditions in License in same manner as 4(e) conditions.
 - c. Potential Biological Opinion
9. FERC boundary (same as Project boundary in this text)
 - a. If long-term PM&E measures are outside the FERC Project boundary, then boundary extension may be necessary. However, the proposed PM&E measure needs to explain why mitigation should extend beyond the boundary of the Project and that the measure is related to Project resources effects.

- b. FERC boundary does not need to be extended for monitoring. For example, requests to monitor water quality or flows below project boundary. If monitoring is absent of a permanent monitoring station, then the project boundary will not need to be extended in the license for long-term monitoring projects.

Other Notes:

*Mystic Lake Project will have a single EA

*PPL Montana plans to draft PM&E 5 year work plans by March 1, 2006.

*Exhibit G (formally labeled Ex. K) maps have been downgraded from CEII to NIP. Jon Jourdonnais will provide latest Mystic Project boundary map (June 2005) to Jeff Gildehaus and Gerrish Willis.