

*(Henry)
Is this OK?
Joe McElwain*

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Montana Power Company

Minimum Flow
Project No. 2301

Order Amending License and Setting Minimum Flows

(Issued August 21, 1981)

On January 19, 1981, Montana Power Company (Licensee) filed, pursuant to Article 34 1/ of the license 2/ for the Mystic Lake Project, FERC No. 2301, a proposal to revise the minimum flow for West Rosebud Creek. 3/

1/ Article 34. Pending further order by the Commission on its own motion or at the request of others, after notice and opportunity for hearing, the Licensee shall:

(a) until a permanent schedule of minimum flows is established as provided for in (b) below, the Licensee shall provide for a 10 cfs minimum flow of water during June, July, and August, and a 2 cfs minimum flow during the remainder of the year, as measured at the weir located in the West Rosebud Creek channel immediately upstream of the powerhouse;

(b) consult and cooperate with the Montana Fish and Game Department and the U.S. Fish and Wildlife Service of the Department of the Interior in making studies for the purpose of recommending a schedule of minimum flows in West Rosebud Creek between the project dam and the powerhouses to protect and enhance the fishery resource of West Rosebud Creek. Within two (2) years of issuance of this order, the Licensee shall file with the Commission the results of such studies. If the studies show a need to modify the minimum flows specified in (a) above, Licensee shall file for Commission approval the minimum flows proposed;

(c) maintain a minimum water surface elevation of 7,663.5 feet, (USGS datum) from July 1 to September 15 each year.

(d) provide for a minimum flow release of 20 cfs downstream from the West Rosebud Creek re-regulating dam except when natural inflow is less than 20 cfs or when maintenance of facilities prevents such a release.

2/ Order issuing major license (constructed) Montana Power Company, FERC No. 2301 (October 5, 1976).

3/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations (18 C.F.R. 375.308), as amended by Order No. 132 in Docket No. RM 81-14, issued February 13, 1981, (46 Fed. Reg. 14119).

The Licensee recommended, in the report entitled "West Rosebud Creek Minimum Flow Study," that the minimum flow for West Rosebud Creek between Mystic Lake and the powerhouse be 3 cfs from September through May, and 10 cfs from June through August, as measured at the weir upstream of the powerhouse. The U.S. Fish and Wildlife Service, by letter to Licensee dated February 19, 1981, and filed on July 14, 1981, stated that the Licensee's recommended minimum flows would restore the aquatic habitat below Mystic Lake. The Montana Department of Fish and Game did not comment on the recommendation.

The minimum flow report complies with the study requirements of Article 34(b). There would be no adverse environmental impacts as a result of implementing the recommended minimum flow, which would supplant the interim minimum flow requirements of Article 34(a).

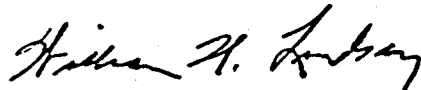
It is ordered that:

(A) Paragraphs (a) and (b) of Article 34 of the license for the Mystic Lake Project, FERC No. 2301, are superseded by the following paragraph.

(a) provide for the discharge of a continuous minimum flow of 3 cubic feet per second from September 1 through May 31, and 10 cubic feet per second from June 1 through August 31, or inflow to the reservoir, whichever is less, for the purpose of protecting and enhancing aquatic resources in West Rosebud Creek between the project dam and powerhouse. These flows shall be measured at the weir located in West Rosebud Creek channel immediately upstream of the powerhouse, and may be temporarily modified if required by operating emergencies beyond the control of the Licensee, and for short periods for fishery management purposes upon mutual agreement between the Licensee and the Montana Department of Fish and Game;

(B) This order is final unless a petition appealing it to the Commission is filed within 30 days from the date of its issuance, as provided in Section 1.7(d) of the Commission's regulations, 18 C.F.R. 1.7(d) (1980).

(S E A L)



William W. Lindsay
Director, Office of Electric
Power Regulation