



Missouri Department of Natural Resources

PUBLIC NOTICE

DRAFT CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION

DATE: October 12, 2012

In accordance with the state Clean Water Law, Chapter 644, RSMo, Missouri Clean Water Commission regulation 10 CSR 20-7.031(2)(D), the federal Clean Water Act, and the Missouri Antidegradation Rule, the applicants listed herein have applied for authorization to discharge to waters of the state. The proposed Clean Water Act Section 401 Water Quality Certification (certification) for these activities apparently will not cause the general or numeric criteria to be exceeded nor impair beneficial uses established in Water Quality Standards, 10 CSR 20-7.031.

On the basis of preliminary staff review and the application of applicable standards and regulations, the Missouri Department of Natural Resources (Department), as administrative agent for the Missouri Clean Water Commission, proposes to issue a certification subject to certain conditions. The proposed determinations are tentative pending public comment.

Persons wishing to comment on the proposed certification conditions are invited to submit them in writing to the Missouri Department of Natural Resources, Water Protection Program, Operating Permits Section, 401 Unit, P.O. Box 176, Jefferson City, MO 65102. **Please include the Certification No. CEL000375 in all comment letters.**

Comments should be confined to the issues relating to the proposed action and certification(s) and the effect on water quality. The Department may not consider as relevant comments or objections to a certification based on issues outside the authority of the Missouri Clean Water Commission, (see Curdt v. Mo. Clean Water Commission, 586 S.W.2d 58 Mo. App. 1979).

All comments must be postmarked by November 12, 2012, or received in our office by 5:00 p.m. on November 15, 2012. The Department will consider all written comments, including e-mails, faxes and letters, in the formulation of all final determinations regarding the applications. If response to this notice indicates significant public interest, a public meeting or hearing may be held after due notice for the purpose of receiving public comment on the proposed certification or determination. Public hearings and/or issuance of the certification will be conducted or processed according to 10 CSR 20-6.060 and 10 CSR 20-7.031.

Additional certification information including copies of applicable regulations are available for inspection and copying at the Department's website at <http://www.dnr.mo.gov/env/wpp/401/401-pn.htm>, or at the Missouri Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

Jeremiah W. (Jay) Nixon, Governor • Sara Parker Pauley, Director

www.dnr.mo.gov

SEP 28 2012

Mr. Warren A. Witt
Ameren Missouri
One Ameren Plaza
1901 Chouteau Avenue
P.O. Box 66149
Mail Code: 602
St. Louis, MO 63103

Re: 401 Water Quality Certification, Taum Sauk Pumped-Storage Project

Dear Mr. Witt:

The Missouri Department of Natural Resources (Department) has reviewed the applicant's request for Water Quality Certification under Section 401 of the Federal Water Pollution Control Act for the Taum Sauk Pumped-Storage Project as part of the re-licensing process required by the Federal Energy Regulatory Commission (FERC). Union Electric (now doing business as Ameren Missouri) owns and operates the Taum Sauk Project, FERC No. P-2277. The Project is currently operating under the original FERC 50 year license which was issued retroactive to 1960. On June 23, 2008, Ameren Missouri filed its application for a new FERC license for the continued operation of the Taum Sauk Project. On July 2, 2010 the FERC issued a notice of an annual renewable license to Ameren Missouri, and it is the Department's understanding that FERC will consider issuance of a long-term license for the facility once the relicensure review process is completed. For purposes of this Water Quality Certification, the term "applicant" shall apply to Ameren Missouri and any agents, successors or assigns that may become responsible for the operation of the Taum Sauk Pumped-Storage Project.

The Project is located in Reynolds County on the East Fork of the Black River (EFBR), approximately 90 miles southwest of St. Louis, Missouri.

Legal Description: SW ¼, Sec.21, T33N, R2E, Reynolds County Missouri. The facility address is Rt. 1, Box 112, Annapolis, MO 63620.

The Taum Sauk Pumped-Storage Project generally consists of:

- A Lower Reservoir impounded by a concrete-gravity dam downstream of the confluence of the EFBR and Taum Sauk Creek;
- An Upper Reservoir on top of Proffit Mountain;

- A vertical shaft; rock and concrete-lined tunnel section, and penstock conduit;
- Pump-generated plan with two reversible pump units and two motor generators each with a nameplate rating of 204 megawatts (MW);
- An excavated tailrace and open channel to the Lower Reservoir;
- A 138 kV switchyard/substation;
- A gravel and sedimentation trap (bin wall) on EFBR; and
- Associated ancillary equipment.

The Department requests that the conditions of the certification be incorporated into articles of the Federal Energy Regulatory Commission license for this project (if granted), and that nothing in the FERC license be inconsistent with the conditions.

The Department has issued this State 401 Water Quality Certification provisionally subject to revision based on conditions incorporated in the FERC license. Department staff are available to discuss certification requirements upon the request of the applicant. The issuance of the provisional certification will be placed on public notice for thirty days and any comments received will be considered for incorporation upon FERC's issuance of the license for the project. This certification is issued pursuant to Section 401 of the Clean Water Act and consistent with the Water Quality Standards of the State of Missouri set forth in 10 CSR 20-7.031 provided the following conditions are adhered to:

1. **Compliance with Conditions.** The applicant shall operate and maintain the Project consistent with the conditions of this certification. The terms and conditions of the Water Quality Certification may be amended and additional terms and conditions added as necessary to ensure compliance with Missouri water quality standards. At the request of the Department, the applicant shall meet with the Department to discuss and resolve issues related to the operation of the project.
2. **Water Management Plan (WMP).** The Project shall be operated in accordance with the WMP developed by the applicant, the Department and the Missouri Department of Conservation. The applicant shall follow the prescribed reporting requirements of the WMP. Water management at the Taum Sauk Pumped-Storage Project is dynamic and changes to the WMP may be necessary to address unanticipated issues should they arise. The applicant shall inform the Department and members of the resource agencies' Water Management Team (Missouri Department of Natural Resources and Missouri Department of Conservation) of any proposed changes to the WMP and may at any time request consultation among the parties to consider any proposed revisions to the WMP. The applicant shall inform FERC of significant modifications to the WMP.
3. **Compliance with Water Quality Standards.** At no time shall the Taum Sauk Pumped-Storage Project cause water quality standards to be violated. If the Department determines that water quality standards are being violated, additional conditions may be imposed or existing conditions amended by the Department. If the applicant fails to meet a standard, the

Department may require the applicant to develop a compliance plan, approved by the Department, and timely implementation of the plan.

- a. **Overflow Relief Structure.** The applicant has previously committed to developing a cleanup and recovery plan in conjunction with state resource agencies to address any impacts in the event the overflow relief structure is operated. Given that Taum Sauk Creek, an Outstanding State Resource Water, would be the receiving stream if the structure were to be operated, this plan shall address this contingency.
 - b. **Erosion Control.** Upon request by the Department, the applicant shall design and implement erosion control measures as necessary to address erosion resulting from use of the Project lands that causes turbidity or otherwise compromises water quality. Any erosion control work that exceeds minor maintenance shall be subject to prior approval by the Department.
 - c. **Control of Feral Hogs.** Feral hogs cause enhanced erosion and its attendant impacts on water quality through increased sedimentation. The applicant will continue to allow access to the Project area for the agencies to trap and/or kill feral hogs. The applicant will also continue to provide support to the Feral Hog Task Force efforts to control and eradicate feral hogs in the area.
 - d. **Healthy Riparian Corridors.** The applicant shall ensure maintenance of healthy riparian corridors within the project area to ensure protection of water quality.
 - e. **Rare, Threatened, and Endangered (RT&E) Species.** The applicant will continue to support protection of threatened and endangered plant and animal species identified on the applicant's lands in consultation with the U.S. Fish and Wildlife Service, the Missouri Department of Conservation and the Department.
 - f. **Control of Non-Native Species.** The applicant will support efforts of the Department and the Missouri Department of Conservation to control non-native invasive species.
 - g. **Aquatic Habitat in the Lower Reservoir.** The applicant will continue to support efforts to improve aquatic habitat in the lower reservoir.
4. **Water Quality Monitoring Plan (WQMP).** The applicant is currently monitoring critical water quality parameters upstream and downstream of the Project. The applicant will continue monitoring of these critical water quality parameters including, but not limited to dissolved oxygen, turbidity, pH, conductivity and temperature throughout the license period. The Department or the Missouri Department of Conservation may at any time request consultation with the applicant to consider revisions to the applicant's monitoring efforts. The applicant shall inform FERC of significant modifications to the applicant's water quality monitoring efforts.

- a. **Water Flow Gages & Continuous Monitoring.** The applicant shall provide for the operation and maintenance of the two existing EFBR gaging stations for the life of the project. These gages provide instrumental information necessary in determining compliance with the contents of the certification as well as essential support for water quality decisions regarding the EFBR system.
 - b. **Continuous Monitoring.** Continuously monitored parameters must, at minimum, include dissolved oxygen, water temperature, conductivity, pH, turbidity and discharge.
5. **Watershed Protection.** The project is situated in a watershed that contains areas whose preservation and protection is essential to maintain the wild character of the adjacent public lands and the water quality of the waters of the state, including Taum Sauk Creek, an Outstanding State Resource Water. The applicant shall ensure continued protection of project lands within the watershed and work to minimize any impacts that may result from activities on project lands to public lands that surround the project.
6. **Petroleum Spills.** The applicant shall operate the Project in conjunction with best management practices. Petroleum products spilled into any water or on the banks where the material may enter waters of the state should be immediately cleaned up and disposed of properly. Any such spills of petroleum shall be reported as soon as possible, but no later than 24 hours after discovery to the Department's Environmental Emergency Response number at (573) 634-2436.
7. **Approval of Changes.** The applicant shall operate the Project as described in this Water Quality Certification and the Water Management Plan. Should the FERC license require modifications or the applicant request to make modifications, the applicant shall consult with the Department for a determination of whether the certification may need to be amended or a new certification issued. Any amendment of certification or new certification, determined appropriate by Department, must be issued prior to implementing any changes.
8. **Reopening the License.** The Department may request, at any time, that the FERC reopen the license to consider modifications to the license as necessary to ensure compliance with Missouri water quality standards.
9. **Periodic Review.** The administration of the certification will require periodic review of compliance data, review and approval of management plans and other studies, and other consultation with the applicant and other parties. The applicant shall provide data and other materials upon the Department's request.
10. **Compliance Inspection by Departments.** The applicant shall allow the Department and other State and Federal Resource Agencies to inspect the Project at any time to monitor for compliance with the certification conditions.

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11. **Maintenance and Repair.** At least 90 days prior to implementing any alterations of normal reservoir pool levels or stream flow, or maintenance or repair that requires earth-disturbing activities, including but not limited to dredging or desilting operations, the applicant shall consult with the Department. Except under emergency conditions, the applicant shall obtain approval and any necessary permits from the Department prior to initiating these types of maintenance activities.
12. **Discharge of Dredge and Soil Material.** This Certification does not authorize discharge of dredge or soil material in or into jurisdictional waterways. Emergency and Routine Maintenance shall be permitted under the appropriate U.S. Army Corps of Engineers Permit.
13. **Required Permits.** The applicant is responsible for securing and for compliance with required permits or approvals as may be required by the Department, federal, state, or local governmental agencies for project activities.

You may appeal to have this matter heard by the Administrative Hearing Commission (commission). To appeal, you must file a petition with the commission within thirty (30) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission.

Pursuant to Chapter 644.052.9, RSMo, commonly referred to as the Missouri Clean Water Law, this certification shall be valid only upon payment of a fee of seventy-five dollars (\$75.00). The enclosed invoice contains the necessary information on how to submit your fee. Payment must be received within fifteen (15) days of receipt of this certification. Upon receipt of the fee, the certification is in effect and final.

If you have any questions, please contact me by phone at (573) 751-6721, by e-mail at john.madras@dnr.mo.gov or by mail at the Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, MO 65102-0176. Thank you for working with the Department to protect our environment.

Sincerely,

WATER PROTECTION PROGRAM



John Madras
Director

JM/mcs

Enclosure