



Laura Ziemer
Montana Director
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December 2, 1999

Mark Simonich,
Director
Montana Department Of Environmental Quality
Lee Metcalf Bldg.
1520 East Sixth Avenue
Helena, MT. 59620-0901

Re: Amendment of 401 Certification Conditions for Madison Development of Missouri-Madison Hydroelectric Project, FERC Project No. 2188.

Dear Director Simonich:

Trout Unlimited writes to ask the Department to revisit its September 9, 1993 section 401 certification on the Missouri-Madison Hydroelectric Project because that certification is insufficient to protect water quality and beneficial uses on the Madison River.

Trout Unlimited is a non-profit conservation organization with more than 100,000 members in 50 states, and over 2,500 members in Montana. Trout Unlimited's mission is to conserve, protect, and restore North America's trout and salmon fisheries and their watersheds. Trout Unlimited members participate in a variety of conservation and advocacy projects, including hydropower licensing cases. Since the application for re-licensing of the Madison-Missouri Hydroelectric Project was filed, the Madison-Gallatin Chapter of Trout Unlimited has been involved in the analysis and generation of information regarding temperature changes on the Madison River due to the Madison Dam. Trout Unlimited makes this request to your Department now, based on many years of effort focused on the Madison Dam's effect on river temperatures and restoring the river's vital fishery.

The Department's 1993 401 certification on the Missouri-Madison Hydroelectric Project fails to address thermal pollution on the Madison River below the Madison Development that is part of the Missouri-Madison re-licensing. Trout Unlimited agrees with the recommendation of the Environmental Protection Agency (EPA) "that the Montana Department of Environmental Quality (MDEQ) consider amending the 401 conditions developed in 1993." *See EPA, Region VIII Letter of Feb. 19, 1998 to FERC regarding comments on Draft EIS, in Final Environmental Impact Statement (FEIS) for the Missouri-Madison Hydroelectric Project, FERC Project No. 2188 (September 10, 1999) E-94-E-113, at E-109.* EPA states that "We believe such amendment

is needed to assure a proper focus in the 401 conditions that operations minimize harm to the prescribed beneficial uses of the lower Madison River." *Id.*, FEIS at E-97.

None of the 11 conditions in the Department's 1993 401 certification address elevated temperatures on the Madison River. *See* Draft Environmental Impact Statement, Missouri-Madison Hydroelectric Project, FERC Project No. 2188 (September 29, 1997) at 5-13.

Trout Unlimited urges MDEQ to amend the 401 conditions because of the new data that has been generated on elevated temperatures on the Madison River through the preparation--and comments on--the Draft and Final Environmental Impact Statements. As EPA points out, this information, which was not developed when MDEQ considered Montana Power Company's original application for a 401 certification, "makes it clear that the existing elevated water temperatures are harmful to the prescribed beneficial uses of the lower Madison River." *See* FEIS at E-109.


Although the Federal Energy Regulatory Commission states in the FEIS that "it is not easy to determine how much of the heating can be attributed to the presence of the Madison Dam," it concedes that one of "the primary water quality issues associated with the Madison Development" is "the potential for adverse thermal effects on downstream fish populations due to a suspected higher rate of heating at Ennis Lake than in the Madison River." FEIS at 3-28; FEIS at 3-25. In addition, studies conducted by the Montana Power Company indicate that Ennis Lake causes an approximately 1°C elevation in mean temperature and a 3°C elevation in maximum temperature at Greycliff which is located downstream of the dam. FEIS at 3-30. Moreover, according to FERC's temperature modeling, 33% of the mean temperature warming between Hebgen Dam and Three Forks (a distance of 100 miles) occurs on a 5 mile stretch of the river beginning just upstream of Ennis Lake and ending at Greycliff. FEIS at 3-34.

The State of Montana has undisputed authority to assure that the operation of dams in the state meet water quality standards. *See* A.R.M. § 17.30.105 The State also has the authority to minimize harmful effects to prescribed beneficial uses. A.R.M. § 17.30.636 ("Owners and operators of dam impoundments that cause conditions harmful to prescribed beneficial uses of state waters shall demonstrate to the satisfaction of the department that continued operations will be done in the best practicable manner to minimize harmful effects.") Trout Unlimited urges the Department to amend its 401 conditions to ensure that the Madison Development of the Missouri-Madison Hydroelectric Project is operated in accordance with water quality standards and to minimize harmful effects to the prescribed beneficial uses.

Please notify Trout Unlimited in writing if the Department decides to re-visit the existing 401 conditions.

Additionally, do not hesitate to contact us if you have any questions regarding our request, or if we can be of any assistance in the Department's review of its 1993 401 certification conditions for the Madison-Missouri Hydroelectric Project re-licensing.

Sincerely,


Susan A.T. MacGrath
Western Water Project

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