



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



JENNIFER M. GRANHOLM
GOVERNOR

December 11, 2007

2-10855

Mr. Shawn Puzen
Integrus Business Support, LLC
P.O. Box 19002
Green Bay, Wisconsin 54307-9002



Dear Mr. Puzen:

It has come to our attention that the Upper Peninsula Power Company (UPPCO) is considering the rebuild of Silver Lake on the Dead River with a lower spillway elevation. This possibility was discussed at meetings with the Michigan Department of Environmental Quality (MDEQ) and Michigan Department of Natural Resources (MDNR) on September 25, 2007, and October 18, 2007. This letter is in response to the Paul C. Rizzo Associates report entitled, "Spillway Elevation Study Silver Lake Reservoir Reconstruction Engineering FERC Project No. 10855-MI," dated October 25, 2007 (hereafter, the Report) that was sent to Mr. John Suppnick of my staff on October 26, 2007 by Mr. Greg Egtvedt of Integrus Business Support, LLC. The Report was prepared to evaluate the effects of a proposed lower Silver Lake spillway elevation on Federal Energy Regulatory Commission (FERC) license compliance and spillway performance/safety.

The Report predicts water elevations at Silver Lake and the Dead River Storage Basin for the previous Silver Lake spillway elevation of 1486.25 and a proposed Silver Lake spillway elevation of 1485.25. Unfortunately, we cannot evaluate the acceptability of the proposed Silver Lake spillway elevation because we disagree with how the Report interprets the "start of month target elevation" requirements in Condition 1.0 of the Section 401 Water Quality Certification (hereafter, the Certification) and Article 402 of the FERC License. The Report interprets start of month target elevations as start of month target minimum elevations that may be exceeded by any amount. This interpretation is incorrect.

Condition 1.1 of the Certification requires the UPPCO to maintain Silver Lake "at all times above" specific "minimum elevations." In addition, Condition 1.1 of the Certification requires the UPPCO to "strive to operate the existing facilities in such a manner as to achieve" specific "start of month target elevations." Furthermore, Condition 1.3 allows UPPCO to discharge flows from Silver Lake up to 200 cubic feet per second "if necessary to maintain target elevations during extreme wet weather conditions." Start of month target elevations are not minimum levels that the UPPCO should try to exceed or maximum levels that the UPPCO should try to stay below.

"Target" is defined in Webster's Seventh New Collegiate Dictionary as a "goal to be achieved." Start of month target elevations were included in the Certification to clearly establish the water elevation goals for Silver Lake (and the Dead River Storage Basin) that UPPCO's project operations were expected to achieve to the closest extent possible on the first day of each month. A careful review of our file for the UPPCO Dead River Hydroelectric Project has revealed no correspondence, meeting notes, or other information that contradicts this interpretation of the Silver Lake water elevation requirements in Condition 1.0 of the Certification.

Copy FAXED to TJ Lovullo

Mr. Shawn Puzen

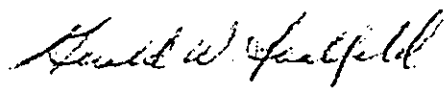
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Operations of the Dead River Hydroelectric Project as proposed in the Report are not authorized by the existing Certification. We are willing to work with the UPPCO to explore Certification modifications that would still comply with Section 401(a) of the Federal Clean Water Act and the Michigan Water Quality Standards.

Please contact Mr. John Suppnick, Surface Water Assessment Section, Water Bureau, at 517-335-4192, or suppnickj@michigan.gov, if you would like to initiate Certification modification-related discussions or if you have questions concerning the content of this letter.

Sincerely,



Gerald Saalfeld, Chief
Upper Peninsula Unit
Surface Water Assessment Section
Water Bureau
517-335-4201

gs:js:dp

cc: Ms. Peggy Harding, FERC
Ms. Christie Delonia Sheffield, U.S. Fish and Wildlife Service
Ms. Jessica Mistak, MDNR
Mr. Chris Freiburger, MDNR
Mr. Kyle Kruger, MDNR
Mr. Steve Casey, MDEQ
Ms. Diana Klemans, MDEQ
Mr. John Suppnick/Section 401 File, MDEQ