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DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



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OFFICE OF THE  
SECRETARY

April 24, 2008

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Dear Ms. Bose:

The Michigan Department of Environmental Quality (MDEQ) is providing comments in response to the Upper Peninsula Power Company's (UPPCO's) supplement to the Dead River Hydroelectric Project: Environmental Report-Silver Lake Reservoir Rebuild (Federal Energy Regulatory Commission [FERC] No. 10855-188) (hereafter, the Supplement) dated March 19, 2008.

The MDEQ issued a Section 401 Water Quality Certification (hereafter, the Certification) for the UPPCO's Dead River Hydroelectric Project on February 24, 1999. This Certification established "Start of Month Target Elevations" and "Minimum Elevations" for the Silver Lake and Dead River Storage Basins. Conditions 1.1 and 8.1 of the Certification require the UPPCO to "strive to operate the existing facilities in a manner as to achieve the Start of Month Target Elevations in the Silver Lake and Dead River Storage Basins." As explained in the December 11, 2007, letter (copy enclosed) from Mr. Gerald W. Saalfeld, MDEQ, to Mr. Shawn Puzen, Integrys Business Support, LLC, the "Start of Month Target Elevations" were included in the Certification to clearly establish water elevation goals for the Silver Lake and the Dead River Storage Basins that the UPPCO's project operations were expected to achieve, to the closest extent possible, on the first day of each month. Please note the "Start of Month Target Elevations" for the Silver Lake and Dead River Storage Basins from the Certification are also contained in the FERC License that was issued for the Dead River Hydroelectric Project.

Although the document titled, "Environmental Report Dead River Restoration Area Silver Lake Project FERC Project No. 10855-MI" (hereafter, Environmental Assessment) and the Supplement state that the UPPCO intends to operate the facility consistent with the FERC License, our review of the two documents indicates that the UPPCO is actually proposing to operate the facility differently than what is required by the current FERC License and MDEQ Certification. If the UPPCO proposes to operate the facility differently than what is required by the current FERC License and MDEQ Certification, they would need to file for an amendment to the FERC License and the MDEQ Certification. The License/Certification amendment process would allow for an appropriate evaluation of the water quality impacts of any proposed operational changes. Otherwise, it is not clear when a comprehensive Environmental Assessment of the project would take place if the rebuilt dam is ultimately operated differently than required under the current License and Certification.

The MDEQ continues to fully expect the UPPCO to comply with all of the conditions/requirements contained in the current License and Certification after the Silver Lake dam is rebuilt. Operations of the Dead River Hydroelectric Project as proposed in the Environmental Assessment and the Supplement are not authorized by the current License or Certification. As indicated above, the License and Certification would need to be amended to

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authorize the proposed facility operations described in the Environmental Assessment and Supplement. The MDEQ remains willing to work with the UPPCO to explore Certification modifications that would comply with Section 401(a) of the Federal Clean Water Act and the Michigan Water Quality Standards.

Please contact me if you have any questions concerning this letter.

Sincerely,



John Supnick  
Upper Peninsula Unit  
Surface Water Assessment Section  
Water Bureau  
517-335-4192

**Enclosure**

cc: Mr. Shawn Puzen, Integrys Business Support, LLC  
Mr. Peter Yarrington, FERC  
Mr. Chris Freiburger, MDNR  
Ms. Jessica Mistak, MDNR  
Mr. Steven Casey, MDEQ  
Ms. Diana Klemans, MDEQ  
Mr. Gerald Saalfeld, MDEQ