

FILE DATE 11/29/07  
DOC DATE 11/27/07

3043

*Upper Peninsula Power Company*

## **BONEY FALLS PROJECT**

**-FERC No. 2506-**

### **SHORELINE MANAGEMENT PLAN**

*And*

**REQUEST FOR AMENDMENT OF ARTICLE 413:  
LAND USE MANAGEMENT PLAN, AND  
ARTICLE 412: RECREATION PLAN**



November 2007

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 66*

14 May 2007

**PUBLIC COMMENTS FROM HENRY DE GROOT,  
WELLS TOWNSHIP BOARD**

**WELLS TOWNSHIP  
MARQUETTE CO.**

FILED  
OFFICE OF THE  
SECRETARY  
2007 MAY 21 P 3 38

May 14, 2007

Magalic-Roman Salas  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, D.C. 20426

Concerning: Project Boney Falls 2506

Dear Magalic-Roman Salas

I wish to inform you that the Wells Township Board has reviewed the Boney Falls "Shoreline Management Plans."

Our Board is encouraged and pleased that planned development resulting from these Plans would as time progresses help improve the economic climate of our township, providing a needed new tax base increase, thereby providing needed resources to our citizens by our government and county.

The plan provides an opportunity for local contractors to build waterfront homes assist local building supply firms and provide additional jobs. All this assistance is welcome, given our state and region's challenging economic times.

Further, the additional tax revenue generated would be a great asset to the Wells Township School District (K-8 ) which is struggling under current state budget conditions.

The Board also views this as an opportunity to enhance access to our natural environment, to promote the natural beauty of our area to local residents, the general public and tourists to utilize these sites.

We are please the environmental protection and recreational improvements have been proposed. We call your attention to information in the Plans about property around these flowages the public now use and will continue using in addition to utilizing Boney Falls.

In closing, we offer our support for the Plans with the request that UPPCO continue working with local stakeholders.

Sincerely,

  
Henry De Groot, Supervisor

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 67*

**15 May 2007**

**PUBLIC COMMENTS FROM GERALD O. CORKIN,  
MARQUETTE COUNTY BOARD OF COMMISSIONERS**

**MARQUETTE COUNTY BOARD OF COMMISSIONERS  
RESOLUTION IN SUPPORT OF  
SHORELINE MANAGEMENT PLANS FOR  
UPPER PENINSULA POWER COMPANY'S  
CATARACT AND BONEY FALLS FLOWAGES**

**WHEREAS, the Marquette County Board of Commissioners has reviewed in consultation with the County Planning Commission proposed Shoreline Management Plans for Upper Peninsula Power Company's Cataract (#1084) and Boney Falls (#2506) flowages; and**

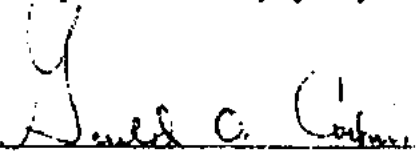
**WHEREAS, these plans were developed based on over 14 months of input from resource agencies, local and state government leaders, the public and a UPPCO focus group that included representatives from this board and several townships, as well as outdoor enthusiasts and the Lake Superior Community Partnership, which the Board votes has gone on record in support of the plans. The draft plans include recreational enhancements for the public good and proposals to protect the environment and promote responsible development; and**

**WHEREAS, it should be noted that the project lands at these flowages will remain open for public, allowing Boney Falls and Cataract to continue being resources for people to use alongside more than 280,000 acres of land open to the public in Marquette County, as well as 416,000 acres in the Escanaba River State Forest of the Central Upper Peninsula; and**

**WHEREAS, the Board notes that UPPCO's non-project lands sold at these flowages are expected over time to play a role in diversifying the County's economy. Given this time of uncertainty about future state aid to local units of government and the Michigan economy, the Board welcomes development that would broaden the Marquette County tax base and provide new revenue to help fund services citizens rely on from local government, as well as help the construction trades industry. Any new tax base will also be of help to applicable K-12 Public and Intermediate School Districts.**

**NOW THEREFORE BE IT RESOLVED, that the Marquette County Board of Commissioners hereby offers support for the Shoreline Management Plans and that a copy of this Resolution is transmitted to appropriate UPPCO and government officials.**

*Adopted this 15<sup>th</sup> day of May, 2007*

  
\_\_\_\_\_  
Gerald O. Corkin, Chairperson  
Marquette County Board of Commissioners

May 8, 2007

Honorable Chair and Members of the  
Marquette County Board of Commissioners

When the Committee of the Whole met on Tuesday, May 8, 2007, they considered a recommendation from the Marquette County Planning Commission review of the Draft Shoreline Management Plans for the Cataract Basin and Boney Falls.

Dottie Lewis, Planner, was present to answer any questions. During the regular scheduled meeting on May 2, 2007, the Marquette County Planning Commission reviewed the Draft Shoreline Management Plans for the Cataract Basin in Forsyth Township, and the Boney Falls Basin in Wells Township. The plans were prepared by the Upper Peninsula Power Company (UPPCO) as a Federal Energy Regulatory Commission requirement. UPPCO developed the plans in response to the recent UPPCO non-project land purchases by Nantera Land Company surrounding the two basins. The Planning Commission reviewed the Draft Plans for planning process and consistency with the Marquette County Comprehensive Plan.

The planning process involved input from members of focus groups, local government officials, and the general public. All proposed recreation enhancements would be located on the project lands according to the land's classification. Classification was determined according to field investigations that determined land suitability and resource inventory. In addition, the proposed recreation enhancements would be designed and funded by UPPCO.

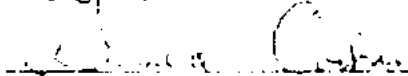
According to the Marquette County Comprehensive Plan Recreation Policies, the County is encouraged to promote the cooperation among government units, other public and private organizations, and businesses in developing recreational programs and facilities.

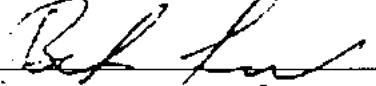
The Planning Commission agreed that UPPCO's proposed recreation enhancements to the Cataract Basin and Boney Falls are which include the design, development, maintenance and operation of trails, fishing piers, historical interpretive maps, bathymetric maps of the water flow, dock systems and recreational brochures would be a benefit to Marquette County. Commissioners unanimously agreed that the proposed enhancements would increase the surrounding property values and therefore increase taxes to the municipalities.

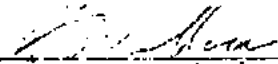


The Marquette County Planning Commission fully supports the recreational enhancements proposed in the Draft Shoreline Management Plans for the Cataract and Boney Falls basins.

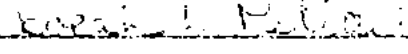
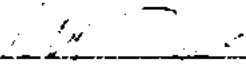
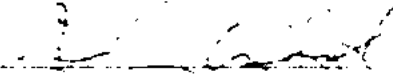
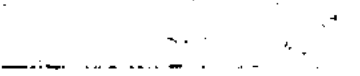
It was moved by Comm. Bergdahl, seconded by Comm. Heikkila, and unanimously carried by voice vote that the Committee of the Whole recommend the County Board support the Draft Shoreline Management Plans for the Cataract Basin and Boney Falls.

Respectfully submitted, COMMITTEE OF THE WHOLE

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Vice-Chair

  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

*Approved  
10-11-07  
Chair*

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 68*  
16 May 2007  
PUBLIC COMMENTS FROM STEVE HOVEL

**ORIGINAL**

RE: P- 1864, 2402, 10856, 10854, 2506  
RE: The application by UPPCO and its SMP for all of the above  
Attention:  
Janet Wolfe communications manager UPPCO  
CC: Kimberly D. Bose Federal Energy Regulatory Commission

FILED  
OFFICE OF THE  
SECRETARY

2007 MAY 16 P 3:17

Dear Janet and Kimberly,

I oppose modifications to the original license, and I oppose the new SMP as proposed by UPPCO.

As I viewed the SMP's for Bond and Prickett and looked at the maps of the areas it is clear that the human disturbance will fragment the ecosystem. I am a retired Environmental Science Instructor, and in my analysis to allow development of building sites and then piers and docks as proposed would certainly interfere with the contiguous habitat requirements of a number of species.

While many species can adapt to humans including whitetail deer and the skunk, it is the much rarer and endangered or threatened species that will not be able to adapt.

All species have a Zone of Tolerance shaped like a bell shaped curve, now divide that bell with 5 vertical zones with the center being the optimum range, every species has its own range of what it can tolerate and thus its own bell shaped curve for every environmental factor, such as temperature, sunlight, rainfall, competition on and on, including man made factors such as noise, as well as habitat fragmentation. When a species is forced to try to live out side of its optimum range it encounters stress.

This could result in a variety of consequences ranging from poor reproduction (to no reproduction) to loss of the species. The species may simply move and leave the area (emigration) or may perish while trying to adapt. Plant species can not pack up and go. A coyote could adapt the timber wolf would not, the whitetail deer would adapt the Moose would not, now include all species including migratory song birds. (The US Army Corps of Engineers can update you on the Federal Migratory Bird Act which would have an impact on the wetland areas such as flood plain next to all rivers.) In addition human disturbance will lead to the intrusion of a number of invasive species or "non natives".

It is well documented that the number one cause of a loss of species is loss of habitat. Today unless there is a natural disaster the main cause of a loss of habitat starts with fragmentation of the original habitat by humans. Add to this other environmental factors such as climate change and the ecosystem is severely stressed, and finds itself in an artificial zone of tension. Plant species and everything else associated would be altered forever.

I am not opposed to sales to some types of conservation minded groups, nor am I opposed to all types of development. But to take these large tracks of land and change their management to allow for multiple building sites and water access would be a fatal blow to the ecosystem as it has evolved over the thousands of years since the glaciers.

Sincerely,  
*Steve Hovel*  
Steve Hovel

W6054 Creamery Road Fort Atkinson, WI. 53538  
hovelc@compuserve.com



Upper Peninsula Power Company Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 69*  
17 May 2007  
PUBLIC COMMENTS FROM JIM LYONS

ORIGINAL

**Jim Lyons**  
**POB 698**  
**Buxton NC, 27920**

FILED  
OFFICE OF THE  
SECRETARY  
2007 MAY 23 P 3 10

May 17, 2007

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E.  
Washington D.C. 20426

Re: Please protect Michigan's undeveloped water bodies: Project No. 1864 (Bond and Victoria), Project No. 2402 (Prickett), Project No. 10856 (Au Train), Project No. 10854 (Cataract) and Project No. 2506 (Boney Falls).

Dear Secretary Bose,

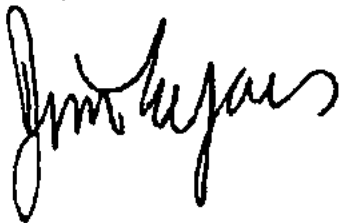
I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required of UPPCO in this matter.

Building these docks will fail the mitigation for these license agreements UPPCO agreed to protect. Please safeguard and enhance wildlife habitat, provide for public access and manage the forest for old-growth (at Bond Falls and Victoria Reservoirs) as previously agreed.

We hope to visit this part of Michigan one day but will not if this shoreline loose their undeveloped character.

Sincerely,

Jim Lyons



Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 70*

17 May 2007

**PUBLIC COMMENTS FROM WILLIAM MALMSTEN,  
UPPER PENINSULA ENVIRONMENTAL COALITION**

Upper Peninsula Environmental Coalition  
C/O William Malmsten  
22300 County Road CL  
Ishpeming, MI 49849

May 17, 2007

Janet Wolfe, Communications Manager  
Upper Peninsula Power Company  
PO Box 130  
Houghton, MI 49931-0130

**RE: COMMENTS ON DRAFT SHORELINE MANagements PLANS FOR SIX  
BASINS IN THE UPPER PENINSULA OF MICHIGAN**

Dear Ms. Wolfe:

The following comments are in regard to the draft Shoreline Management Plans (SMPs) for six basins in the Upper Peninsula of Michigan, specifically as follows: Project Numbers: 10854 (Cataract), 2402 (Prickett), 1864 (Bond/Victoria), 10856 (AuTrain), and 2406 (Boney Falls) (the Basins hereinafter).

These comments are submitted on behalf of the Upper Peninsula Environmental Coalition (UPEC). UPEC is a grass roots nonprofit organization with about 300 members. We are dedicated to the protection of the unique environmental qualities of the Upper Peninsula of Michigan. Our members tend to enjoy nature's quiet splendor while participating in such activities as hiking, canoeing, bird watching, and nature photography. Many of our members use or would like to use the Basins in question for the pursuit of such activities.

The Basins are currently in a relatively natural condition suitable for the enjoyment by our members. In general the intense development provided for in your draft SMPs would severely degrade the natural conditions of the Basins making them poorly suited for the enjoyment by our members. This intense level of development is inconsistent with the provisions and intent of the operating licenses from the Federal Energy Regulatory Commission.

Our objections to the draft SMPs center on the proposed non-project use of project lands, specifically the proposed granting of easements to property owners of lands bordering the project lands for the following purposes: The installation of private boat docks up to 150 feet in length. The installation of power lines to power lights on the docks with up to 300

watts per dock and to power boat lifts on the docks. The clearing of view corridors up to 200 feet in width through the projects lands so that bordering property owners will be able to view the basins from their homes. The construction of four-foot wide pathways through the project lands from private homes to their private docks on the basins.

While the Division of Hydropower Administration and Compliance (DHAC) Compliance Handbook-Standard Land Use Article, appendix H Article (a), and the corresponding provisions in each project license, provides for non-project use of project lands, it states that "The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project." (emphasis provided) The proposed easements would neither protect nor enhance the scenic, recreational or environmental values of the project basins.

#### Boat Dock Installation:

Perhaps the largest negative impact would occur as a result of the proposed dock installations. A total of 837 individual lighted boat slips with electric powered boat lifts would be allowed in the six basins. It is unclear whether the electric power could be used by dock owners for other purposes such as powering boat lights or electronic music sound systems. The negative impact on the scenic values of the basins by the docks alone would be severe. When 837 boats are added to the docks, the affect would be devastating on the scenic and environmental values of the basins.

While UPPCO does not have direct authority over boating activity on the basins, the type of boat launch facility and the presence of the docks would have a major impact on the intensity of boat use and the type and size of watercraft present. Larger boats and pontoons boats may be impractical to use on the basin because of the difficulty in launching and retrieving the boats in the basins. But if the boats can be launched and left in the basins at the private boat docks for the entire boating season, then the use of these larger boats will be feasible and their use is likely to occur. The presence of these larger boats at the boat docks and also their use on the basins would negatively affect the scenic and environmental values of the basins, and they would also negatively affect the recreational values of our members and of many other people who enjoy the natural beauty of the basins.

The presence of larger numbers of larger sized boats could also be expected to negatively impact water quality. The following excerpt is from the *Environmental Assessment for The Use of Motorized Watercraft In the Sylvania Wilderness*, Ottawa National Forest, United States Department of Agriculture, July 1994 (emphasis provided):

The degree to which engines emit pollutants depends on a variety of factors including the size of the engine, the age of the engine, the type of engine (two-cycle, four-cycle, jet, etc.) type of fuel used and/or the degree to which the engine is tuned and maintained.

Once discharged into the water, petroleum hydrocarbons may remain suspended in the water column, concentrate at the surface, or settle to the bottom. Many hydrocarbon compounds may not persist for very long because of their immiscibility, volatility, or biodegradability. However, while petroleum may disappear rapidly from the water column, the portion that reaches the sediment may persist for several years. Lead compounds from gasoline additives tend to sink to the bottom sediments (*Pollution Impacts from Recreational Boating: A Bibliography and Summary Review*, Milliken and Lec, 1990). Effect of pollutants from marine engines include odor, and off taste in fish and toxic effects on aquatic organisms.

Power boats also have been shown to impact bottom sediments of lakes and to increase turbidity. In 1974 the Environmental Protection Agency (EPA) published a study analyzing the impacts of boating activity on turbidity in shallow lakes (defined as those with a maximum depth of 30 feet). They examined the impact of varying horsepower engines on lakes of varying depths. The study concluded that even a 10 horsepower engine could produce substantial stirring of bottom sediments at depths up to 15 feet and that engines with greater horsepower can do even more damage than smaller engines (*Power boats on shallow lakes: A brief summary of literature and experience on Lake Monegan (NY)*, Wright and Wagner, 1991)

Thus if the installation of the large number of docks called for in the draft SMPs results in increased boating activity and increased boat size, the negative environmental impact would be substantial.

The environmental studies commissioned by UPPCO provided a detailed description of the basins, the associated project lands, and the flora and fauna present. However the impact of the proposed development on the flora and fauna was not covered or was not covered adequately. Many of the wildlife species noted in the studies, such as eagles, loons, and great blue herons, are know to be sensitive to human activity. The increase in boating activity, and the disturbance of shoreline habitat with 150 ft long boat docks would neither protect nor enhance environmental conditions for wildlife in and around the basins.

#### View Corridors:

While the View Corridors up to 200 feet in width are intended to provide a view of the basins from the homes on lands bordering the project lands, such clearing would also make the homes visible from the basins. Our members and others who are visiting the basins to view the natural beauty of the landscape would be negatively impacted when the view of nature is replace by the view of private homes. Wildlife using the habitat provided by project lands would be negatively impacted by the clearing of the view corridors and by the increase human activity in the view corridors. The presence of the view corridors would neither protect nor enhance the scenic, recreational, and environmental values of the project as required by the project licenses and by the Standard Land Use Article.

While the conveyance of easements is provided for in the license agreements for certain purposes under certain circumstances, the clearing of View Corridors is not among the listed possible purpose for easements.

**Pedestrian Paths and Wooden Walkways:**

The four-foot width of the pedestrian paths would seem to be wider than necessary for foot travel. The presence of wooden stairs and walkways could negatively affect the scenic values of the project. The provision allowing the storage of docks, boat lifts, and ramps on the pedestrian paths within in project lands would negatively affect scenic values of the project.

**Predetermined Outcome of Planning Process:**

UPPCO seems to have used the elaborate planning process to try to justify the intense level of development that they had already decided upon before the planning process began.

As a member of the eastern basin Focus Group I attended every eastern basin focus group meeting. At each meeting I made most of the points that are listed above. The members of the eastern basin focus group were largely opposed to the intense development of the basins. Yet the opinions of the focus group members seemed have been largely ignored in the draft SMPs in favor of the desires of Naterra Land Company managers, the purchaser of the bordering non-project lands.

I understand that Wisconsin Public Service's (UPPCO's parent company) 2005 report to stock holders indicates that UPPCO sold a portion of its real estate holdings for 5.9 million dollars, with the possibility of realizing up to an additional 3.0 million dollars as certain contingencies are resolved. If in fact those contingencies include the project land easements being granted to Naterra's lot purchasers, then it may be clear why UPPCO is favoring Naterra over the needs and desires of the people. It appears that it will be very difficult for UPPCO mangers to objective in the development of Shoreline Management Plans and that close scrutiny by The Federal Energy Regulatory Commission is in order.

**Conclusion:**

The rapid development of the shorelines of lakes and streams for home construction in the Upper Peninsula of Michigan is causing wildlife habitat, and scenic and recreational opportunities to disappear. The licensing agreements for the hydroelectric projects were designed to protect the shorelines from development for wildlife habitat and for the scenic and recreational enjoyment by the public. UPPCO is trying to cash in on the

demand for shoreline lots by developing the project basins in conflict with the spirit and letter of the licensing agreements. The process used to develop the SMPs is flawed because of UPPCO manager's bias for development. An Environmental Assessment by a neutral party is needed in order to determine the affect of the proposed development on the scenic, recreational, and other environmental values of the project. We believe that the proposed easements through project lands should not be allowed.

Sincerely,

William Malmsten, Vice President, Upper Peninsula Environmental Coalition

cc: FERC



Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 71*

18 May 2007

PUBLIC COMMENTS FROM DAVID L. SLADKY



**David L. Sladky**  
N3709 Hwy 17, Merrill, WI 54452  
(715) 536-4112

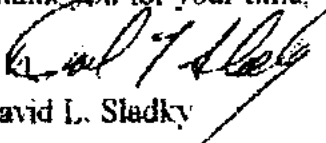
5-18-07

Janet Wolfe  
Communications Manager  
UPPCO  
PO BOX 130  
Houghton, MI 49931-0130

Dear Janet Wolfe,

It is essential to respect our natural home and reserve places for quiet rejuvenation. The long term monetary value of keeping nature natural will far exceed any short term profit or convenience. Docks and shoreline development will only encourage disrespect and disharmony, lowering property value. For real value, for the benefit of future generations, for our home, for your legacy, keep nature natural.

Thank you for your time.

  
David L. Sladky

Upper Peninsula Power Company Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 72*  
**18 May 2007**  
**PUBLIC COMMENTS FROM JOHN COUPE**

May 18, 2007

Upper Peninsula Power Company  
PO Box 130  
Houghton, MI 49931  
Attention: Janet Wolfe

Dear Ms Wolfe:

As an Ontonagon County landowner, I have closely followed the proposed sale of 7300 acres of land (of which approximately 1360 acres have been sold) by UPPCO at six UP flowages. Each of these flowages has unique characteristics which I do not believe were adequately addressed in the Draft Shoreline Management Plans.

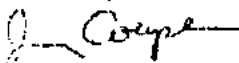
It is difficult to place a value on aesthetic beauty. But I best describe it as something you realize you had once it is gone. As an avid canoeist, I enjoy the serenity of an undisturbed shoreline, drifting along observing eagles, listening to loons or watching a turtle lay her eggs in the sand. I am also a hunter of deer, grouse and other small game. I have many concerns with land fragmentation and the loss wildlife habitat.

According to the license agreements (and associated plans), UPPCO agreed to protect a minimum 200 foot buffer around these impoundments. However, the draft SMP outlines many planned uses, including private lighted individual and cluster docks. None of these will protect the shoreline and definitely do not enhance the reasons I value these flowages. It also causes me to question the integrity of UPPCO's promise with the FERC and general public.

UPPCO has not established how these uses are consistent with the terms of their license. The draft SMP fails to address the cumulative effects any planned development will have on the project lands and waters. Until these plans are made known and the effects evaluated, these proposed uses for the project lands should not be approved.

If UPPCO is truly serious about protecting these fragile environments, they should uphold the license by establishing permanent protection of the shoreline and prohibit private docks.

Sincerely,



John Coupe  
3527 136<sup>th</sup> Ave  
Hamilton, MI 49419

Copy to: FERC Projects 1864, 2402, 2506, 10856, 10854

Upper Peninsula Power Company - Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 73*  
**18 May 2007**  
**PUBLIC COMMENTS FROM DAN HASKELL**

Project #1864 Bond + Victoria  
 2402 Prickett  
 10856

May 18, 2007

Janet Wolfe  
 Communications Manager

UPPCO

PO Box 130

Houghton, MI 49931-0130

FILED  
 OFFICE OF THE  
 SECRETARY

2007 JUN -7 P 2:30

Dear Ms. Wolf

I oppose the recent plans for housing development for the Bonds Falls project (project no.1864) and other similar projects in the U.P. The following report is reason enough for UPPCO to reconsider the planned development in this region. This report is based on scientific research conducted in northern Wisconsin in recent years.

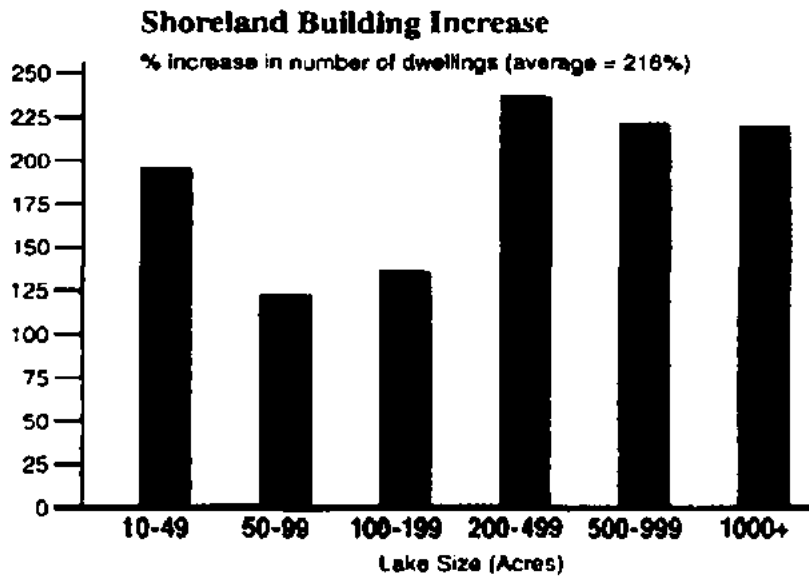
**Summary:**

Shoreland housing development has increased dramatically in recent decades in northern Wisconsin. Riparian and littoral habitat has been altered due to this housing development. The riparian and littoral areas of inland lakes are critical habitat for a variety of wildlife. In addition, lakes shorelines are transition zones between upland and aquatic ecosystems and support an exceptionally high biodiversity. Recent studies conducted on high- and low-development lakes in Vilas County, Wisconsin have documented negative changes in the floral and fauna on these lake shorelines.

**Introduction:**

Northern Wisconsin contains the third largest density of freshwater glacial lakes in the world, with more than 12,400 lakes scattered across the northern third of the state (WDNR 1996). Vacationers have been attracted to this region for decades, and more recently, increasing numbers of people are replacing small seasonal cottages with large year-round houses along the lakeshore. Housing development has increased an average of 216% since 1965 on lakes greater than 10 ha in northern Wisconsin (Figure 1. WDNR 1996). Gonzalez-Abraham *et al.* (2006) suggest that lakes are the single most important factor determining both housing density and spatial pattern of human development. Their results revealed that 41% of human development occurred within 100 m of lakeshores in northern Wisconsin since the 1930s, and most buildings were located within 50 m of each other, suggesting people will tolerate living close to one another on lakes (Gonzalez-Abraham *et al.* 2006). This concentration of housing development along lakeshores has negative consequences for wildlife habitat and the structure of riparian bird communities (Racey and Euler 1983, Lindsay *et al.* 2002, Woodford and Meyer 2003).

**Figure 1. Percentage of shoreline development in northern Wisconsin since 1965 (WDNR 1996).**



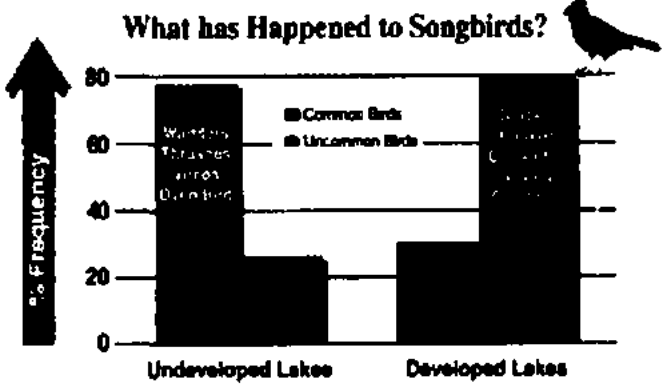
Removal of vegetation structure along shorelines on high-development lakes is a common practice. Elias and Meyer (2003) reported a significant reduction of shrub layer and coarse woody debris on high-development compared to low-development lakes. In addition, non-native and less common species have spread and proliferated with human development and habitat fragmentation throughout northern Wisconsin. Altered species composition can change the physical characteristics of lakes and the biological processes that occur within them.

#### **Background:**

Riparian and littoral zones of lakes provide critical habitat for a variety of wildlife, protect water quality, and have aesthetic appeal when the shoreline is naturally vegetated (Engel and Pederson 1998). Recent studies have documented the negative effects on the floral and fauna due to lakeshore alteration caused by housing development. For example, species composition of breeding birds differ significantly (Lindsay *et al.* 2002), abundance of green frogs is substantially lower (Woodford and Meyer 2003), and vegetation structure and composition in riparian and littoral zones differ profoundly (Elias and Meyer 2003) between high- and low- residential development lakes. In addition, certain piscivorous birds such as the common loon (*Gavia immer*), and osprey (*Pandion haliaetus*) avoid lakes with a high level of human disturbance (Newbrey *et al.* 2005). Furthermore, high-development lake shorelines have less coarse woody habitat (Christensen *et al.* 1996, Elias and Meyer 2003, Marburg *et al.* 2006) and aquatic vegetation (Radomski and Goeman 2001) which reduces habitat for waterfowl and fish (Moyle and Hotchkiss 1945, Jennings *et al.* 1999) and decreases fish growth rates and population size (Schindler *et al.* 2000, Sass 2004).

Lindsey *et al.* (2002) paired high-development lakes with low-development lakes of similar physical characteristics and performed point-counts around the perimeter of each lake to assess bird community structure. Their results revealed several species and some resource guilds were more abundant in one lake development type or the other (Figure 2). Ground nesting and insectivorous birds were more common on low-development lakes. On high-development lakes seed-eating and deciduous-tree nesting birds were more abundant (Lindsey *et al.* 2002).

Figure 2. Comparison of avian species composition (Lindsey *et al.* 2002)



Several species that are listed in U.S. Fish & Wildlife Service Region 3 Resource Conservation Priorities (2002) appear to be more abundant around low-development lakes (Table 1; Robertson and Flood 1980, Clarke *et al.* 1983, Moors 1993, Meyer *et al.* 1997). The regional and local decline of these species has potential ecological effects. For example, the loss of insectivorous birds can have a profound effect on woody plant production (Sipura 1999) and may relate to the substantial increase in defoliating insects in Wisconsin (WDNR 2004).

Table 1. USFWS Region 3 species of conservation priority, which are associated with low-development lakes in northern Wisconsin (Meyer *et al.* 1997, Lindsey *et al.* 2002, Newbrey *et al.* 2005, Meyer 2006).

Common Names	Species	Foraging	Diet	Nesting
Black-throated Blue Warbler	<i>Vermivora pinus</i>	Hover glean	Insect	Shrub
Canada Warbler	<i>Wilsonia canadensis</i>	Hover glean	Insect	Ground
Common Loon	<i>Gavia immer</i>	Surface diver	Fish	Ground
Connecticut Warbler	<i>Oporonis agilis</i>	Ground Glean	Insect	Shrub
Golden-winged Warbler	<i>Vermivora chrysoptera</i>	Foliage Glean	Insect	Ground
Osprey	<i>Pandion haliaetus</i>	High dive	Fish	Deciduous



Recognition of the indirect influence of riparian residential development has spurred investigations aimed at understanding which features of development are responsible for altering breeding bird abundance. In a study of residential development along forested shorelines on Lake Superior, Manarolla and Flaspohler (in review) found that development-related changes in vegetation were responsible for dramatic differences in breeding density for at least seven bird species. Greater vegetation diversity and structure increase bird abundance and species richness (Niemi and Hanowski 1984, Probst *et al.* 1992, Patterson and Best 1996). The reduction of sub-canopy and shrub layer coverage on high-development lakes (Clarke *et al.* 1983, Elias and Meyer 2003) plus increased predation and human disturbance likely contributes to the scarcity of ground nesting and insectivorous birds on high-development lakes in northern Wisconsin (Schmidt and Whelan 1998) (Table 2).

**Table 2: Bird species which may be negatively influenced by shoreline development (Meyer *et al.* 1997, Lindsey *et al.* 2002).**

Common Names	Species	Foraging	Diet	Nestling
American Redstart	<i>Setophaga ruticilla</i>	Ground glean	Insect	Deciduous
Black-and-White Warbler	<i>Mniotilta varia</i>	Bark glean	Insect	Ground
Black-throated Blue Warbler	<i>Vermivora pinus</i>	Hover glean	Insect	Shrub
Black-throated Green Warbler	<i>Dendroica virens</i>	Foliage glean	Insect	Conifer
Blackburian Warbler	<i>Dendroica fusca</i>	Foliage glean	Insect	Conifer
Brown Creeper	<i>Certhia americana</i>	Bark glean	Insect	Conifer
Canada Warbler	<i>Wilsonia canadensis</i>	Hover glean	Insect	Ground
Chestnut-sided Warbler	<i>Dendroica pensylvanica</i>	Foliage glean	Insect	Shrub
Common Loon	<i>Gavia immer</i>	Surface diver	Fish	Ground
Common Yellowthroat	<i>Geothlypis trichas</i>	Foliage glean	Insect	Shrub
Connecticut Warbler	<i>Oporonis agilis</i>	Ground glean	Insect	Shrub
Golden-winged Warbler	<i>Vermivora chrysoptera</i>	Foliage Glean	Insect	Ground
Hermit Thrush	<i>Catharus guttatus</i>	Ground glean	Insect	Ground
Magnolia Warbler	<i>Dendroica magnolia</i>	Hover glean	Insect	Conifer
Mallard	<i>Anas platyrhynchos</i>	Dabbles	Seeds	Ground
Nashville Warbler	<i>Vermivora ruficapilla</i>	Foliage glean	Insect	Ground
Northern Parula	<i>Parula americana</i>	Foliage glean	Insect	Deciduous
Ovenbird	<i>Seiurus aurocapillus</i>	Ground glean	Insect	Ground
Pileated Woodpecker	<i>Dryocopus pileatus</i>	Bark glean	Insect	Snag
Pine Warbler	<i>Dendroica pinus</i>	Bark glean	Insect	Conifer
Rose-breasted Grosbeak	<i>Pheucitcus ludovicianus</i>	Foliage glean	Insect	Deciduous
Scarlet Tanager	<i>Piranga olivacea</i>	Hover glean	Insect	Deciduous
Solitary Vireo	<i>Vireo Solitarius</i>	Foliage glean	Insect	Conifer
Song Sparrow	<i>Melospiza melodia</i>	Ground glean	Insect	Ground

Swainson's Thrush	<i>Catharus ustulatus</i>	Ground glean	Insect	Shrub
Tennessee Warbler	<i>Vernivora peregrina</i>	Foliage glean	Insect	Ground
Tree Swallow	<i>Tachycineta bicolor</i>	Aerial forage	Insect	Snag
Veery	<i>Catharus fuscescens</i>	Ground glean	Insect	Ground
Warbling Vireo	<i>Vireo gilvus</i>	Foliage glean	Insect	Deciduous
White-throated Sparrow	<i>Zonotrichia albicollis</i>	Ground glean	Insect	Ground
Winter Wren	<i>Troglodytes troglodytes</i>	Ground glean	Insect	Snag
Yellow Warbler	<i>Dendroica petechia</i>	Foliage glean	Insect	Shrub
Yellow-bellied Sapsucker	<i>Sphyrapicus varius</i>	Bark glean	Insect	Deciduous
Yellow-rumped Warbler	<i>Dendroica Coronata</i>	Foliage glean	Insect	Conifer
Yellow-throated Vireo	<i>Vireo flavifrons</i>	Foliage glean	Insect	Deciduous

Several studies throughout North America have revealed an increased in mesopredators (e.g. raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*) and feral cats (*Felis catus*)) with increasing housing development and habitat fragmentation (Oehler and Litvaitis 1996, Crooks and Soule 1999, Crooks 2002). Mesopredators are medium-sized predators, adult males weighing between one and 15 kilograms (Buskirk 1999). In addition, housing development displaces higher trophic level carnivores, which may control mesopredator populations or result in a "mesopredator release" (Crooks and Soule 1999, Schmidt 2003). A mesopredator release involves the release or increased density of a consumer species usually following a decline in predation by species at higher trophic levels. The increased abundance of mesopredators is experienced by species in the next trophic lower level in the form of higher predation rates, which in turn can cause prey populations to decline and can potentially alter community structure (Terborgh et al. 1999). Certain mesopredators adapt well to human development (Hecht and Nickerson 1999, Prange et al. 2004) and prey heavily on nests of wetland and songbirds, waterfowl and raptors (Johnson et al. 1989, Sargent, A.B. et al. 1993, Schmidt 2003, McCann et al 2005). Certain avian species that nest on or near lake shores are currently in decline, which may be do to an increase in mesopredators (Lindsey et al 2002). Furthermore, historically these mesopredators were not common to northern Wisconsin (Jackson 1961) and recently have emerged in abundance with human development.

Among the mesopredators, the raccoon has probably benefited the most due to high human development on lakeshores. Raccoons have the most diverse diets of any carnivore, which has been important in their success in human dominated landscapes (Gehrt 2004). Raccoons readily exploit human garbage, pet food, and other food resources related to human activities (Gehrt 2004, Prange et al. 2004). The raccoons climbing ability allows it to access garbage cans, dumpsters, and bird feeders, which are common in residential developments. This artificial food resource has had positive affects on raccoon demographics throughout its range (Hoffman and Gottschang 1977, Prange et al. 2003, 2004). Raccoons often lose 50% of their body mass over winter (Mech et al. 1968), but in suburban areas raccoons may lose only 10% (Riley et al.

1998). It is well documented that raccoon densities are higher in urban and suburban areas (Hoffman and Gottschang 1977, Broadfoot *et al.* 2001, Prange *et al.* 2003). Prange *et al.* (2004) reported raccoons having relatively small home ranges in urban and suburban environments in contrast to rural areas, which was due to the abundance of artificial food resources. In addition, seasonal changes home ranges size were least pronounced at the suburban area (Prange *et al.* 2004). Furthermore, Hoffman and Gottschang (1977) documented that raccoons use linear travel routes going to and from feeding areas and home range averaged 5.5 times as long as wide, suggesting that high population densities and abundant food resources are the cause of small linear home ranges.

### **Conclusion:**

It is well documented the effects housing development has on lake ecosystems. Therefore, I urge UPPCO to reconsider the current development plan on Bond Falls and other projects in the region. I believe that UPPCO and private citizens has a responsibility to protect and preserve our natural resources. The time has come when cooperate entities, developers, government agencies and private citizens' work together to manage our dwindling resources.

Sincerely,

Dan Haskell  
P.O. Box 589  
South Range, MI 49963

### **References:**

Broadfoot, J.D, R.C. Rosatte, and D.T O'Leary. 2001. Raccoon and skunk population models for urban disease control planning in Ontario, Canada. *Ecological Applications* 11:295-303.

Buskirk, S.W. 1999. Mesocarnivores of Yellowstone. Pages 165-187 in T.W. Clark, P.M. Curle, S.C. Minta, and P.M. Kareiva, editors. *Carnivores in ecosystems: the Yellowstone experience*. Yale University Press, New Haven, Connecticut, USA.

Christensen, D.L., B.R. Herwig, D.E Schindler, and S.R. Carpenter. 1996. Impacts of lakeshore residential development on coarse woody debris in north temperate lakes. *Ecological Applications* 6:1143-1149.

Clark, K.L., D.L. Euler, and E. Armstrong. 1984. Predicting avian community response to lakeshore cottage development. *Journal of Wildlife Management* 48:1239-1247.

Crooks, K.R. 2002. Relative sensitivities of mammalian carnivores to habitat fragmentation. *Conservation Biology* 16:488-502.

Elias, J.E., and M.W. Meyer. 2003. Comparisons of undeveloped and developed shorelands, northern Wisconsin, and recommendations for restoration. *Wetlands* 23:800-816.

Engle, S. and J.L. Pederson, Jr. 1998. The construction, aesthetics, and effects of lakeshore development: a literature review. Wisconsin Department of Natural Resources PUBL-SS-577-99.

Gehrt, S.D. 2004. Ecology and management of striped skunks, raccoons, and coyotes in urban landscapes. Pages 81-104 in N. Fascinone, A. Delach, and M.E. Smith, editors. *People and Predators: from conflict to coexistence*. Island Press.

Gonzalez-Abraham, C.E., V.C. Radeloff, R.B. Hammer, T.J. Hawbaker, S.I. Stewart, and M.K. Clayton. 2006. Building patterns and landscape fragmentation in northern Wisconsin, USA. *Landscape Ecology*.

Hecht, A., and P.R. Nickerson. 1999. The need for predator management in conservation of some vulnerable species. *Endangered Species Update* 16:114-118.

Hoffman, C.O., and J.L. Gottschang. 1977. Numbers, distribution, and movement of a raccoon population in a suburban residential community. *Journal of Mammalogy* 58:623-636.

Jackson, H.H.T. 1961. *Mammals of Wisconsin*. The University of Wisconsin Press

Jennings, M.J., M.A. Bozek, G.R. Hatzebeler, E.E. Emmons, and M.D. Staggs. 1999. Cumulative effects of incremental shoreline habitat modification on fish assemblages in north temperate lakes. *North American Journal of Fisheries Management* 19:18-27.

Johnson, D.H., A.B. Sargeant, and R.J. Greenwood. 1989. Importance of individual species of predators on nesting success of ducks in the Canadian prairie pothole region. *Canadian Journal of Zoology* 67:291-297.

Lindsay, A.R., S.S. Gillum, and M.W. Meyer. 2002. Influence of lakehore development on breeding bird communities in a mixed northern forest. *Biological Conservation* 107:1-11.

Manarolla, M. and D.J. Flaspohler. In review. Scale-dependent response by breeding birds to residential development along Lake Superior. *Journal of Great Lakes Research*.

Marburg, A.E., M.G. Turner, and T.K. Kratz. 2006. Natural and anthropogenic variation in coarse wood among and within lakes. *Journal of Ecology* 94:558-568.

McCann, N., D.E. Haskell, and M.W. Meyer. 2005. Capturing common loon nest predators on 35mm film. *Passenger Pigeon* 66:351-361.

- Meyer, M.W., J. Woodford, S. Gillum, and T. Daulton. 1997. Shoreland zoning regulations do not adequately protect wildlife habitat in northern Wisconsin. U.S. Fish and Wildlife Service, State Partnership Grant P-1-W, Segment 17. Final Report.
- Meyer, M.W. 2006. Evaluating the impact of multiple stressors on common loon population demographics-- an integrated laboratory and field approach. EPA STAR Cooperative Agreement Number: R82-9085. Final Report.
- Moors, A. 1993. Towards an avian index of biotic integrity for lakes. Masters Thesis. University of Maine, Orono. 184 pp.
- Moyle, J.B. and N. Hotchkiss. 1945. The aquatic and marsh vegetation of Minnesota and its value to waterfowl. Minnesota Department of Conservation. Technical Bulletin 3. 122pp.
- Newbrey, J.L., M.A. Bozek, and N.D. Niemuth. 2005. Effects of lake characteristics and human disturbance on the presence and of piscivorous birds in northern Wisconsin, USA. *Waterbirds* 28:478-486.
- Niemi, G.J. and J.M. Hanowski. 1984. Relationship of breeding birds to habitat characteristics in logged areas. *Journal of Wildlife Management* 48:438-443.
- Oehler, J.D. and J.A. Litvaitis. 1996. The role of spatial scale in understanding responses of medium-sized carnivores to forest fragmentation. *Canadian Journal of Zoology*. 74:2070-2079.
- Patterson, M.P. and L.B. Best. 1996. Bird abundance and nesting success in Iowa CRP fields: the importance of vegetation structure and composition. *American Midland Naturalist*. 135:153-167.
- Prange, S., S. D. Gehrt, and E.P. Wiggers. 2004. Influences of anthropogenic resources on raccoon (*Procyon lotor*) movements and spatial distribution. *Journal of Mammalogy* 85:483-490.
- Probst, J.R., D.S. Rakstad, and D.J. Rugg. 1992. Breeding bird communities in regenerating and mature broadleaf forests in the USA Lake States. *Forest Ecology and Management* 49:43-60.
- Radomski, P., and T.J. Goeman. 2001. Consequences of human lakeshore development on emergent and floating-leaf vegetation abundance. *North American Journal of Fishery Management* 21:46-61.
- Racey, G.D., and D.L. Euler. 1983. Changes in mink habitat and food selection as influenced by cottage development in central Ontario. *Journal of Applied Ecology* 20:387-402.

- Riley, S.P.D, J. Hadidian, and D.A. Manski. 1998. Population density, survival, and rabies in raccoons in and urban national park. *Canadian Journal of Zoology* 76:1153-1164.
- Robertson, R.J., and N.J. Flood. 1980. Effects of recreational use of shorelines on breeding bird populations. *Canadian Field Naturalist* 94:131-138.
- Sass, G.G. 2004. Fish community and food web responses to a whole-lake removal of coarse woody habitat. Dissertation. University of Wisconsin—Madison.
- Sargent, A.B., R.J. Greenwood, M.A. Sovada, and T.L. Shaffer. 1993. Distribution and abundance of predators that effect duck production—prairie pothole region. U.S. Fish and Wildlife Service Resource Publication 194. 96pp.
- Schindler, D.E., S.I. Geib, and M.R. Williams. 2000. Patterns of Fish Growth along a residential development gradient in north temperate lakes. *Ecosystems* 3:229-237.
- Schmidt, K.A. and C.J. Whelan. 1998. Predator-mediated interactions between and with guilds of nesting songbirds: experimental and observational evidence. *The American Naturalist*. 152:393-402.
- Schimdt, K. 2003. Nest predation and population declines in Illinois songbirds: a case for mesopredator effects. *Conservation Biology* 17:1141-1150.
- Sipura, A.M. 1999. Tritrophic interactions: willows, herbivorous insects and insectivorous birds. *Oecologia* 121:537-545.
- WDNR. 2004. Forest health conditions in Wisconsin annual report. Wisconsin Department of Natural Resources. Madison, WI 53707.
- , 1996. Northern Wisconsin's Lakes and Shorelands: a report examining a resource under pressure. Wisconsin Department of Natural Resources. Madison, WI 53707.
- Woodford, J.E., and M.W. Meyer. 2003. Impact of lakeshore development on green frog abundance. *Biological Conservation* 110:277-284.
- U.S. Fish and Wildlife Service. 2002. Fish & wildlife resource conservation priorities, Region 3. Version 2.0. USFWS website:  
<http://www.fws.gov/midwest/News/documents/priority.pdf>

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 74*

**19 May 2007**

**PUBLIC COMMENTS FROM NANCY WARREN, SPOKESPERSON  
UPPER PENINSULA PUBLIC ACCESS COALITION**

20070524-5078 FERC PDF (Unofficial) 05/24/2007 11:48:19 PM

The Upper Peninsula Public Access Coalition  
P O Box 102  
Ewen, MI 49925  
[www.uppac.com](http://www.uppac.com)

May 19, 2007

Upper Peninsula Power Company  
PO Box 130  
Houghton, MI 49931  
Attention: Janet Wolfe

Re: Draft SMP Comments P-1864, P-2402, P-10856, P-10854, P-2506

Dear Ms Wolfe:

Upper Peninsula Public Access Coalition (UPPAC) is a "coalition" of concerned citizens. The common thread that connects us all is our enjoyment and concern for the lakes, streams, rivers and woodlands in Michigan's Upper Peninsula.

To date, we have garnered support from over 1760 individuals who believe FERC should force UPPCO to follow the Section 5.4 Handbook process and order the preparation of a new environmental impact study. We believe FERC should not approve any conveyances until a new EIS has been prepared and shared with the public because the planned sale and residential development of adjacent UPPCO lands were never disclosed to the public during the relicensing process.

We believe it is critical that all citizens be allowed the opportunity to participate at each level of the process involving the planned uses for the public waterways and project lands surrounding the flowages at Bond, Victoria, Prickett, AuTrain, Cataract and Boney Falls.

As stakeholders, UPPAC fought for a Shoreline Management Plan. We believed one of the most basic goals for development of the plan was for the licensee (UPPCO) to bring together all interested parties for open discussion. UPPCO made public promises they would, but like many other promises, UPPCO fell terribly short.

#### Public Meetings

Throughout this process, UPPCO/WPS held several "informational" meetings. However, their many "rules" limited public participation:

- Questions had to be in writing
- Only questions related to the topic being discussed that night could be submitted
- No other topics could be raised
- Anything written had to be in the form of a question (no comments were allowed)
- No matter how poorly the question was "answered", no follow-up questions were permitted



Due to the limited time UPPCO permitted, very few questions were read. For those that were, UPPCO representatives often either partially answered it or missed the point altogether and failed to answer it at all. One just has to look at attachments 69 and 70 of the Draft SMP to read the number of questions/comments submitted either at the meetings or via email (some of the questions/comments are even cut off) that still have not been addressed by UPPCO.

The AuTrain public meeting was held 4/3/07 despite a prediction of 8-11 inches of snow and dense fog along the Lake Superior Shoreline keeping many people away.

The meeting for Boney and Cataract was held 4/4/07, even though more than a foot of snow fell during the day, with winds gusting to 50 mph, closing many roads and canceling flights. Here is an excerpt from the 4/5/07 edition of the Mining Journal:

*MARQUETTE - - High wind gusts and record snowfall made the idea of spring in April a far-off dream for Marquette County residents*

*The National Weather Service in Negaunee Township measured 24 inches of snowfall Wednesday, breaking a 1974 record of 12 inches. Meteorologist Jason Alumbaugh also said the snowfall total was the second largest 24-hour total in the office's history...*

We were shocked that UPPCO held these two public meetings despite record breaking severe weather. If UPPCO was truly sincere about receiving public input, they would have rescheduled each of them.

Focus Groups

UPPCO has now presented their Shoreline Management Plan stating it is the result of "consultation" and "collaboration" with local government officials, agencies, and members of the public, including two specially formed focus groups. Consultation implies there were discussions among focus group members and with UPPCO. Attempts by any member to initiate a discussion were not tolerated. UPPCO never sought consensus and it was made clear that the focus groups would not have any role establishing goals or objectives for the Shoreline Management Plan.

Similar to the public meetings, the Focus Groups also had a strict set of rules that restricted participation:

- 1) At the beginning of each meeting, we were permitted to make a statement.
- 2) No one was allowed to ask any questions during the UPPCO presentations.
- 3) Following the presentations, each member was given a chance to make another statement or ask a question. On rare occasions, and if time allowed, we were permitted a follow-up question.
- 4) The public was not allowed to observe the meeting
- 5) Reporters were not allowed
- 6) We were not permitted to record any meeting.

At the 5/2/06 public "informational" meeting, the public was told that the Shoreline Management Plan "will address concerns." Yet, focus group members were never

20070524-5078 FERC PDF (Unofficial) 05/24/2007 11:48:19 PM

allowed to discuss many of our concerns. Those that were mentioned, such as the impact unburned fuel/fuel spills would have on water quality, were not addressed. The numerous comments regarding private docks and the negative impact they will have on shoreline aesthetics and the traditional uses of the flowages were ignored and some of these comments were not recorded in UPPCO's official minutes. UPPCO even led local government representatives to believe their concerns over private docks didn't matter (unless they supported them) because the final decision rested with The FERC.

UPPAC suggested separate focus groups be formed for each of the flowages or least each project, to accommodate more public participation; UPPCO refused. We asked for a team of "technical advisors" such as biologists, wildlife managers and other experts who could be available at meetings to answer our questions; UPPCO refused. It became clear from the beginning that UPPCO was merely going through the motions but not the process by hosting focus group meetings. UPPCO was just not interested in any input that opposed their plans to convey private uses of the project lands to Naterra.

Following complaints about the composition and rules for the focus group, UPPCO issued a letter to focus group members dated 6/13/06 that stated "If you continue to attend, we consider it an acceptance of the meeting structure and guidelines in this letter." In other words, take it or leave it.

Section 6.7 of the SMP indicates the majority of the planned enhancements are the result of "consultation" with members of the focus groups. This is simply not true. Most were "planted" ideas, initiated by UPPCO representatives at the focus group meetings. UPPCO representatives even met privately with selective focus group members at other times and locations to barter support for their "enhancements" and private conveyances to Naterra.

UPPAC requested a meeting devoted solely to the licenses and hoped for a meaningful dialogue. UPPAC anticipated a meaningful dialogue. We were hopeful that the proposed uses for the project lands would be compared to each license and associated plans. Instead, at the 6/22/06 meeting the focus group was told this was not our role. UPPCO representatives read selective sections from the license while we were expected to sit and listen. Those of us who read the license were frustrated because we were not allowed to question UPPCO or discuss the numerous inconsistencies. For example:

#### Prickett

A key element of the Prickett license, Article 414, was never even mentioned at the focus group meetings and was not posted to the UPPCO website until UPPAC brought it to their attention in late March 2007. We believe this was a critical omission as this article refers to the shoreline buffer zone as an area where there should be a "no tree cutting zone." Although UPPCO substituted the wording in the Land Use and Recreation Management Plan to read "no timber harvesting", no one anticipated a major development or that "enhanced" view corridors would be planned. When asked, UPPCO responded that they interpreted "no timber harvesting" to mean, "no commercial harvesting". The intent of Article 414 is clear -- no tree cutting; the license would have stated no commercial harvesting had that been the intent.

20070524-5078 FERC PDF (Unofficial) 05/24/2007 11:48:19 PM

UPPCO is proposing the removal of brush (including young saplings) less than 2 inches in diameter for pedestrian paths and viewing corridors. It is our position that viewing corridors should not be permitted without a license amendment request with impacts addressed as part of an environmental impact study.

#### AuTrain

Appendix D (Private Land Use Guidelines, applying to corporate lands) of the Comprehensive Land Management Plan, approved May 1999, states "4.2 Unauthorized Private uses of Hydro Lands -- private docks and shoreline use."

The intent of the approved CLMP is clear, there will be no private docks or use of the shoreline at AuTrain.

#### Cataract

The Comprehensive Land Management Plan and Wildlife Plan, approved by the FERC in 1999, called for aesthetic management "aesthetic management is applied to areas that have unique qualities that require more restricted management policies or prescriptions. Such areas include but are not limited to 200 ft shoreline buffer zones...due to the importance of the areas within the 200 ft of shoreline, any management within the 200 ft zone will be conducted only after consultation with MDNR."

Among the objectives stated was "UPPCO's goal is to work in partnership with nature through proper management of the project lands for optimum enhancement." However, Goal 6 of the draft SMP is to "minimize impacts to the aesthetic quality of the shoreline."

The approved Wildlife Plan also states "the relatively undisturbed condition of the property within the project boundary provides for excellent wildlife habitat... land management activities will incorporate wildlife management techniques to enhance wildlife populations." However, the draft SMP, Goal 8, states to "avoid or minimize impacts to sensitive wildlife species."

The approved Wildlife Plan further states "Shoreline buffer zones and environmentally sensitive areas are treated different from other areas. All shoreline buffer zones are 200 ft wide and aesthetic management techniques are the only management activities allowed in these areas. Active vegetative management can take place within this 200 ft zone if approved by all parties (licensee, USFWS, MDNR)". The draft SMP allows for "enhanced" view areas. This is a direct contradiction to the management concepts described in the license's wildlife management plan. UPPCO/WPS wants us and the FERC to believe their draft SMP is consistent with the approved license and plans. They are not even close.

#### Bond

The recreation plan submitted by UPPCO and approved by FERC stated "In order to obtain old growth characteristics along the shorelines of project reservoirs as described in the Buffer Zone Plan, to enhance loon nesting potential as described in the Wildlife and

20070524-5078 FERC PDF (Unofficial) 05/24/2007 11:48:19 PM

Land Management Plan, and to provide more isolated habitat for waterfowl and threatened species, *UPPCO proposes to develop two designated camp site locations near the boat launches of the Bond Falls Reservoir, one on the east side and one on the west side of the reservoir.*"

UPPCO lead us to believe elimination of the dispersed campsites was for environmental reasons, while in reality; they were planning for an extensive land sale to a major developer. It was not until after UPPCO obtained FERC approval for consolidation of the dispersed campgrounds (November 2005) that they unveiled their plans to sell their non-project lands to Naterra and to convey easements for trails and private piers and docks to the new lot owners.

Now that the true reasons have been revealed, the entire campground configuration should be re-evaluated as part of this process.

The Recreation Plan approved by FERC allowed for:

- A canoe take out area with directional signage to Agate Falls for canoe launching opportunities
- A hard surface boat launch at Barclay boat landing
- A skid pier at Barclay boat landing
- Improvements to parking at Barclay Boat landing

Now, UPPCO states these enhancements for the public will be done **WITHIN TWO YEARS OF PLACEMENT OF THE FIRST DOCK** for Naterra's lot owners or 2010. This is just another ploy by UPPCO to mislead the public: If you support the private docks, UPPCO will "give" you a canoe take-out while in reality, these recreational enhancements are required by the license.

Nearly all the other public recreational enhancements need approval by FERC or consultation with agencies but UPPCO says they are now contingent upon the first private dock being placed on the project lands. These additional enhancements are merely a manipulative tool by UPPCO, hoping to buy support for Naterra's private docks on the project lands.

Individuals who did not read the license were given the impression that the proposed planned non-project uses of the project lands were in compliance.

#### General Comments Regarding the Draft Shoreline Management Plan

We believe UPPCO has a responsibility to ensure that shoreline development activities that occur within project boundaries are consistent with the intent of the FERC approved license(s) and associated management plans.

According to FERC guidelines, a Shoreline Management Plan (SMP) is a comprehensive plan to manage the multiple resources and uses of the project shorelines in a manner that is consistent with license requirements and project purposes, and addresses the needs of the public. However, UPPCO has stated the purpose of the SMP is "managing and

20070524-5078 FERC PDF (Unofficial) 05/24/2007 11:48:19 PM

mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources.” UPPCO fails to mention compliance with the license requirements.

The Upper Peninsula Public Access Coalition opposes all private individual and cluster docks at all six Upper Peninsula flowages. We do not support “pedestrian paths” or “enhanced” view corridors. We believe these uses to be in conflict with the current licenses and/or management plans for the flowages. The project shorelines are undeveloped with little human disturbance. The proposed uses will degrade not only the aesthetic values of the shorelines, but will also negatively impact wildlife and waterfowl habitat.

The Draft SMP suggests that our communities can expect an economic windfall if the proposed private docks are allowed. The analysis presented by UPPCO is purely speculative without information about the cost of road maintenance, police, fire and other services. UPPAC is once again asking that UPPCO and Naterra fund an independent cost of service study to support (or challenge) their claims.

UPPCO would like the public to believe thorough environmental assessments were done. They even claimed at the 5/02/06 public meeting that they consider “its environmental study to be equivalent in scope to an Environmental Impact Statement.” We disagree. The assessments done by EPRO were merely an overview of some of the reservoir features. They were poorly prepared, omitted vital information and provided only a snapshot of the natural features of these flowages. When EPRO was asked at a public meeting why the assessments did not address the impacts UPPCO’s proposals will have on the project lands, they responded they were not hired to address the impacts.

UPPCO now states “Until such time when development proposals at each of the impoundments are put forth, it is not possible to assess the potential resource impacts on project lands and waters.” We believe all of UPPCO’s and Naterra’s development plans should first be put forth. Then, the potential resource impacts on the project lands and waters can be made known through a FERC ordered Environmental Impact Study followed by a public comment period.

Given the way focus group and public “informational” meetings were conducted, it is no surprise that the Draft SMP reflects everything UPPCO had originally proposed in their NEIA of December 2005 with one exception. UPPCO did remove the ban on public fishing within 100 ft of Naterra’s private docks. In virtually every other way, this Draft SMP is a direct reflection of UPPCO’s original goal: private boat slips for every Naterra lot owner.

#### Summary

The Draft Shoreline Management Plans are inadequate. None address the cumulative impacts the proposed sale and development of the non-project lands will have on the project lands including water quality, wildlife habitat and the aesthetic value. The proposed non-project uses of the project lands are not consistent with the license and will

20070524-5078 FERC PDF (Unofficial) 05/24/2007 11:48:19 PM

significantly diminish public access and recreational use of the shoreline and project waters.

We will continue to urge the Federal Energy Regulatory Commission to order a new comprehensive Environmental Impact Study for each of the flowages, along with public hearings followed by a public comment period, prior to the approval of any conveyances on the project lands.

Thank you for the opportunity to comment.

Sincerely,

(filed electronically with UPPCO)  
Nancy Warren  
Spokesperson  
Upper Peninsula Public Access Coalition

Copy to FERC

20070524-5078 FERC PDF (Unofficial) 05/24/2007 11:48:19 PM

Submission Contents

Comments to UPPCO Draft SMP P-1864, P-2402, P-10850, P 10854, P-2506  
SMPUPPACCOMMENTS.doc..... 1-7

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 75*  
19 May 2007  
PUBLIC COMMENTS FROM KAREN TISCHLER



19 May 2007

Janet Wolfe  
Communications Manager  
Upper Peninsula Power Company  
P.O. Box 130  
Houghton, MI 49931-0130

RE: Comments on the draft Shoreline Management Plans for proposed developments on Bond Falls, Victoria, Prickett, AuTrain, Boney Falls, and Cataract Reservoirs (FERC hydroelectric projects numbers P-1864, P-2402, P-10856, P-2506, P-10854)

Dear Ms. Wolfe:

Thank you for the opportunity to comment on the draft Shoreline Management Plans (SMPs) for each of the FERC-regulated reservoirs listed above.

The Standard Land Use Article (Article 420) of the current license agreements between FERC and UPPCO allows UPPCO to grant permission for some uses of project lands on the reservoirs, but only for those uses that are "*consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project*". I will make reference to this statement in these comments to demonstrate how I believe the actions proposed in the SMPs for these reservoirs are inconsistent with the spirit of the FERC license agreements with UPPCO.

We in the western Upper Peninsula are fortunate to have abundant public lands which protect natural resources and provide recreational opportunities. UPPCO's own commissioned "Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources" (prepared by E/PRO in 2006) states that "*A defining character of UP lakes in general is their remote, undeveloped feel*". However, with the increasing value of waterfront property, fewer and fewer shorelines retain this wild feel—even within the boundaries of large tracts of public land, such as the Ottawa National Forest, much of the lakeshore is privately-owned and developed. Since the function of these project lands has primarily been to generate electricity, and secondarily to fulfill the associated federal licensing requirements, these reservoirs have de facto been maintained as wild landscapes with limited development, providing ample habitat for wildlife and recreational opportunities.

As evidence of the high value the public places on natural and scenic landscapes, I refer to the same UPPCO-commissioned report cited above, in which surveyed users ranked the "natural character" of these reservoirs as the most important factor why people choose to use them for recreation. Furthermore, users also valued remote lakes, undeveloped shorelines, ample wildlife viewing opportunities, seeing few people, and a dark night sky *more* than they valued developed campgrounds. Why then is UPPCO proposing additional campground development and new public docks as concessions for developing the lake for private interests, and couching these concessions as "recreational

enhancements" when your own survey suggests these are not among the things that the public would identify as "enhancements" on these particular reservoirs?

I believe the developments UPPCO proposes in the SMPs to remove stumps (on Prickett) and add viewing areas, access paths, docks, and dock lighting in FERC-regulated project areas will degrade rather than protect and enhance the scenic, recreational and environmental values local (such as myself) and tourist users seek at these sites.

I am particularly concerned that proposed actions in the SMP for Prickett Lake will have a deleterious impact on both the environmental and aesthetic integrity of this site. The E/PRO report states that the topography surrounding Prickett Lake "is noteworthy for the Upper Peninsula" and that "this quality is enhanced by long-distance views from the southeastern subunits of Silver Mountain" (Section 5-9). Adding the proposed trails (and stairs), docks and lights would significantly alter the association, appearance and feel of this landscape. Additionally, as I understand, the area just below the Prickett Dam supports one of, and perhaps the only remaining, free-ranging, self-sustaining population of Lake Sturgeon in the Great Lakes Basin. While the SMP does concede that stump removal and dock additions would likely cause temporary increases in turbidity, the plan in no way evaluates the potential long-term impacts of these activities on downstream Lake Sturgeon. I believe any actions which could jeopardize the health of this population would violate the FERC license agreement.

I urge UPPCO to not only uphold the terms of existing licensing agreements with FERC on these hydroelectric project reservoirs, but also to be a leader in land stewardship by considering partnerships with conservation buyers on non-project lands rather than development interests.

I recommend Prickett Lake as an ideal place to practice the type of land stewardship. Protecting this area would be a great contribution to the communities you serve in the Upper Peninsula and would go far in improving your commitment to being an environmentally sensitive company.

I hope you take these comments and concerns into consideration.

Sincerely,

Keren Tischler  
49820 Limerick Rd.  
Hancock, MI 49930

Cc: FERC, Congressman Bart Stupak, Senator Carl Levin, Senator Debbie Stabenow

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 76*

20 May 2007

**PUBLIC COMMENTS FROM JOSEPH KAPLAN,  
COMMON COAST RESEARCH & CONSERVATION**



Common Coast Research & Conservation  
 PO Box 202 • Hancock MI 49930 • 906.487.9060

20 May 2007

Janet Wolfe  
 Communications Manager  
 Upper Peninsula Power Company  
 P.O. Box 130  
 Houghton, MI 49931-0130

Subject: Comments on draft Shoreline Management Plans for Upper Peninsula hydroelectric projects: Bond Falls (P-1864); Prickett (P-2402); Au Train (P-10856); Escanaba River Dam #4, Boney Falls (P- 2506); Cataract (P-10854).

Dear Ms. Wolfe,

We appreciate the opportunity to provide comments on the draft Shoreline Management Plans (SMPs) for the six reservoirs on which private development and increased public use is being proposed by the Upper Peninsula Power Company (UPPCO).

Our organization is dedicated to the study and protection of common loons in Michigan. Our biologists work closely with public agencies, corporations, and the private sector in an effort to increase appreciation and understanding of this State-listed species. Our experience with loons spans over fifteen years, and includes the monitoring of loon populations throughout the Upper Peninsula, including the Ottawa National Forest, Isle Royale National Park and Seney National Wildlife Refuge. The following comments will address aspects of the SMPs that have the potential to influence the protection and enhancement of loons and loon habitat on these reservoirs.

We are concerned that the draft SMPs do not convey a commitment from UPPCO to protect and enhance conditions for nesting loons on these hydroelectric project lands, and we identify this as the major deficiency of the plans. We believe that the *Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources* on the reservoirs (completed for UPPCO by E/PRO in 2006) provided insufficient information for determining the appropriate number and placement of decks and trails so as to minimize impacts to breeding loons and their nesting habitat. Furthermore, we believe that the current management of the project lands that allows for widely fluctuating water levels to be the primary limiting factor for the use of UPPCO reservoirs by breeding loons.

Our own cursory surveys of the Bond Falls, Au Train and Prickett reservoirs suggest that while the number of current loon territories on these reservoirs appears to be much lower than that suggested by their overall size and their frequency of nesting habitat, there is considerable potential to support additional loon territories by *enhancing* this habitat to accommodate the particular characteristics of the impoundments. Specifically, the use of floating nest platforms for loons can be very effective on reservoirs that experience large fluctuations in water levels (e.g., Bond Falls and Au Train). We have successfully used this conservation tool in the western Upper Peninsula to mitigate the loss of nesting habitat due to shoreline development, and nesting platforms are in widespread use on FERC-regulated projects in New England (Evers 2004, p. 39). UPPCO is obligated by Article 414 of the relicensing agreement on the Bond Falls Project to place two such platforms on Bond Falls and one on the Victoria Reservoir. However, at this time no platforms have been placed, nor has UPPCO assessed the number of loon territories that could feasibly be supported on each of these reservoirs with the use of these platforms. Until a complete assessment of both existing and potential loon territories is undertaken, including an evaluation of the most appropriate locations in which to position potential platforms, we believe that any proposed alterations to the impoundment shorelines or islands that will increase or concentrate recreational use of the reservoirs is premature. We believe that the impacts of such proposed actions on current and future loon use cannot yet be accurately evaluated.

We are additionally concerned that UPPCO's proposal to develop docks and trails adds a new layer of complexity for maintaining these water resources for loon production. Development and recreation do not necessarily preclude successful loon occupancy and productivity, but it is widely established that nesting loons can be disturbed by human recreation. Understanding the impacts of this recreation on loon productivity is complex, and requires carefully designed site-specific strategies to assure successful protection (Evers 2004). For example, loons nesting on artificial platforms in high recreation areas often need a buffer area (created by floating buoys) to reduce disturbance. In our experience, it takes a considerable commitment to maintain and monitor artificial nest platforms and buoys to assure successful use by loons, and an additional investment of time and energy to educate the public regarding the appropriate buffer distances required by these nesting pairs.

In light of these considerations, we offer the following recommendations to protect and enhance loon populations on FERC-regulated Upper Peninsula impoundments. We urge UPPCO to incorporate these recommendations in the final SMPs.

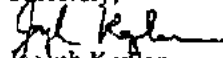
- 1) We recommend that UPPCO establish goals for the number of loon pairs to be maintained on each reservoir through the development of a long-term artificial nest platform and monitoring program. Our conservative estimates for the number of potential loon territories on the Bond Falls, Prickett and AuTrain reservoirs are:
  - a. Bond Falls: potential for 5-7 loon territories (at least three currently exist)
  - b. Prickett: potential for 2 loon territories (no known territories currently exist)
  - c. AuTrain: potential for 5-6 loon territories (no known territories currently exist).

These estimates are based upon surveys of the current conditions on these waterbodies, and upon loon territorial densities on a) nearby reservoirs that experience more natural water level fluctuations (i.e. Cisco Chain), and b) large natural lakes systems of Isle Royale National Park. We believe that these estimates represent reasonable goals that can be achieved within a five-year time frame, and we strongly encourage UPPCO to adopt them within them within the final SMPs.

- 2) We recommend that UPPCO develop an artificial loon nesting platform and monitoring program before taking measures to increase recreational opportunities on shoreline and island areas through construction of docks, trails, and new campsites. Prior establishment of an artificial loon nesting platform and monitoring program would allow for a less disruptive approach to the subsequent placement of any development infrastructure.
- 3) We recommend that the SMPs incorporate all potential loon nesting habitat (including islands, wetlands and areas surrounding nest platform sites) into Conservation Areas, especially on reservoirs with maximum likelihood of supporting natural loon nesting sites (i.e., those that are managed in a "run-of-river" mode and experience limited water level fluctuations). Specifically, on the Prickett Impoundment we recommend that all shoreline to the east of the islands at the south end of the lake be designated as a Conservation Area rather than an Access Pathway Area.
- 4) As there is little evidence (published or anecdotal) that the proposed no-wake zones outlined in the SMP will be effective in protecting nesting loons, we recommend removal of no-wake zones from the final SMPs if they were included for the benefit of loons.
- 5) We recommend UPPCO evaluate the potential impact of proposed increases in recreational use on nesting loons and modify the Development and Recreational Enhancement Proposals of the SMPs accordingly.

We hope you find these comments useful. We offer our expertise to you as UPPCO considers measures to protect and enhance loon usage of its Upper Peninsula reservoirs.

Sincerely,



Joseph Kaplan

Director, Common Coast Research & Conservation

Cc: FERC, USFWS, USFS, MDNR

Literature cited: Evers, D.C. 2004. Status assessment and conservation plan for the Common Loon (*Gavia immer*) in North America. U.S. Fish and Wildlife Service, Hadley, MA.

Upper Peninsula Power Company Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 77*

**20 May 2007**

**PUBLIC COMMENTS FROM NICOLE POLLACK**

3649 Bayou  
West Bloomfield, MI 48323

20 May 2007

Janet Wolfe  
Communications Manager  
Upper Peninsula Power Company  
P.O. Box 130  
Houghton, MI 49931-0130

RE: Comments on draft Shoreline Management Plans for Upper Peninsula hydroelectric projects: Bond Falls (P-1864); Prickett (P-2402); Au Train (P-10856); Escanaba River Dam #4, Boney Falls (P- 2506); Cataract (P-10854)

Dear Ms. Wolfe:

Thank you for the opportunity to provide public comment on Upper Peninsula Power Company's (UPPCO) Shoreline Management Plans. UPPCO, a subsidiary of Integrys Energy Group, Inc. (formally WPS Resources Corporation) contends they chose Natterra Land (formally Taylor Investment Corporation and Four Season's Reality) to develop land surrounding U.P. reservoirs because Natterra Land has a "tradition and commitment for quality projects that are harmonious with the surrounding environment."

Unfortunately, Wisconsin circuit court system (<http://wcca.wicourts.gov>) and the U.S. Army Corps of Engineers records indicate this may not be the case, as Natterra Land is well represented in the files of both (see information below). In addition, there are several instances where Natterra Land has sued local planning commissions and/or conservation districts when these authorities have moved to control the scope of Natterra's development. It concerns me that several of the reservoir projects are in rural areas that may have no protective zoning measures in place thus making them vulnerable to unscrupulous developers (i.e. Houghton County's portion of Prickett, FERC No. 2402).

Though UPPCO may view commentary on Natterra Land beyond the limited scope of the Shoreline Management Plans I believe it is important for UPPCO to clarify or defend Natterra's "track record" in regard to potential past violations such as those provided below. UPPCO is on record promoting Natterra Land's reputation as a contentious developer. I believe it is critical to evaluate past problems of UPPCO's development partner so that the character of the reservoirs in question is not negatively impacted by UPPCO's proposed plans to provide private docks on FERC regulated flowages. What contingencies does UPPCO currently have in place with Natterra Land regarding the development of docks on UPPCO flowages?

I would like to know why UPPCO contends Natterra is "the best of the best" when it comes to developers and, specifically, what US Army Corp of Engineers cases represent violations of navigable waters. Furthermore, can UPPCO provide any other Federal or State agency records concerning violations of protective statutes by Natterra Land or its



aliases (e.g. the Environmental Protection Agency or the State of Minnesota)? What measures can be put in place to avoid the kind of misunderstandings that lead to lawsuits between any potential developer and local planning agencies?

Finally, UPPCO has sought the support of local governments and school districts to support their proposed Shoreline Management Plans on the premise that such development will lead to more tax money for schools and municipalities. Can UPPCO provide any evidence, such as a Cost of Services Analysis, that can support the assumption that docks and trails will produce much needed tax revenue for these rural communities? It seems that any increase in tax revenue will most certainly be offset by the cost of developing and maintaining infrastructure in such remote and rural locations. I recommend UPPCO provide a summary in the SMP's of what measures it has taken to gain the support of local units of governments and what information was provided to these decision making entities that was not shared at the planned public meetings to discuss the SMP.

UPPCO's proposed actions as outlined in the SMPs have been the focus of a lot of concern by the public, organizations, and resource agencies. I do not agree with UPPCO approach of separating project and non-project uses as it tries to seek approval for "improvements" that are necessary for large-scale residential development around these impoundments. Changing the use of these areas from predominately forestry to that of residential should not be taken lightly and I strongly advocate that UPPCO deals with these concerns in a more thoughtful manner though the development of an Environmental Assessment under National Environmental Policy Act requirements for each of UPPCO's FERC-licensed facilities.

I appreciate your consideration of my concerns regarding UPPCO's proposed Shoreline Management Plans.

Sincerely,

Nicole Pollack

---

From the Wisconsin circuit court system (<http://wcca.wicourts.gov>)

January 2005 – Case No. 2005FO 000045 (Ashland County)

State of Wisconsin vs. Bradley J. Stillings (Alias: Naterra Land – Doing Business As)  
Violations:

Fail/Obtain Construction Site Permit (Statute NR 216.43-- Citation R176353)

August 2004 – Case Nos. 2004FO 000342 through 000347 (Iron County)

**State of Wisconsin vs. Taylor Investments**

**Violations:**

- Enlarging a Waterway without a Permit (Statute 30.19(1g)(a) -- Citation R172620 & R172616)
- Fail/Revise Plans to Protect Waters (Statute NR216.50 -- Citation R172614)
- Fail/prepare Storm Water Pollution Plan (Statute NR 216.27 -- Citation R172613)
- Fail/Maintain Erosion Control BMPs (Statute NR 216.46(1) -- Citation R172618)
- Fail/Implement Site Erosion Control Plan (Statute NR 216.46 -- Citation R172610)

December 2002 -- Case No. 2002FO 001552 (Oneida County)

**State of Wisconsin vs. Taylor Investment Corp**

**Violations:**

- Remove Soil/Bank Stream without Permit (Statute 30.19(1)(c) -- Citation R147033)

December 2002 -- Case Nos. 2002FO 000394 through 000396 (Lincoln County)

**State of Wisconsin vs. Taylor Investment Corp**

**Violations:**

- Fail/Maintain Erosion Control BMPs (Statute NR 216.46(1) -- Citation R147034)
- Fail/Inspect Erosion Control BMPs (Statute NR 216.48(4) -- Citation R147035)
- Fail/Implement Site Erosion Control Plan (Statute NR 216.46 -- Citation R147032)

August 1999 -- Case No. 1999FO 000319 (Sawyer County)

**Zoning -- Sawyer County vs. Taylor Investment Corporation**

**Violations:**

- Failure to Obtain Land Use Permit (Statute 9.2 -- Citation Z345)

September 1996 -- Case No. 1996FO 000673 (Vilas County)

**County of Vilas vs. Taylor Investment Corp**

**Violations:**

- Cutting Shoreland [sic] w/o a Permit (Statute 6.2 -- Citation 9292)

August 1995 -- Case Nos. 1995FO 000511 through 000513 (Lincoln County)

**State of Wisconsin vs. Taylor Investment Corporation**

**Violations:**

- Remove Soil/Bank Stream without Permit (Statute 30.19(1)(c) -- Citation R23079 & R23082)
- Unauthorized Boom Construction/Navigable Water (Statute 30.15(1)(c) -- Citation R23083)

United States Army Corps of Engineers – File cases for Naterra Land (under associated aliases) – NOTE: these cases do not necessarily represent permit violations.

20057421 Naterra Land-Pike Lake Subdivision  
 20056459 Naterra Land, Inc -Raymond Haberoth-deli  
 20055829 Naterra Land Inc. Cartway Petition Kutil  
 20055673 Naterra Land Co. -- Brule River  
 20055592 Naterra Land, Inc. Longfollow Retreat  
 20055467 Christine King-housing-Red Cedar River  
 20054925 Red Cedar Ridge Subdivision  
 20054859 Naterra Land  
 20051274 Mac Wilkus Trust Plat Bear Paw  
 2004160876 Taylor Investment Corp. Bass Lake wetland  
 200405363 Floodwood Lake – Wetland Delineation  
 200404898 Taylor Investment – Little Long Lake  
 200404243 Lessard – Nature’s Way Plat  
 200403607 Aaron Lake Estates Driveway  
 200402541 Taylor Investment Corp – Chippewa Ridge Dev  
 200402471 Taylor Investment Corp -- Superior Heights  
 200401271 Taylor Investment Corp, Tilden Millpond – housing  
 200400240 Taylor Invest. Corp.  
 200400177 Taylor Investment – Whispering Willow Preliminary Plat  
 200309251 Taylor Investments – The Preserve at Stewart Lake  
 200307971 Construct Roadway to West Elbow Lake Estates  
 200307889 Relling Meadows Subdivision  
 200307244 Taylor Investment – Mistwood Boat Ramp  
 200306056 Taylor Investment Corporation Bluebill Pass Roadway  
 200305183 Taylor Investment Corp - Fill/Road Wetland  
 200305131 Taylor Investment -- N. Br. Pelican  
 200303140 Grouse Ridge, Pickerel Lake  
 200302630 Taylor Investment Big Lake dev  
 200301702 Taylor Investments-Potato River  
 200300279 Taylor Investment Corp. – City of Mt. Iron Subdivision  
 200208375 Taylor Investments – new construction  
 200206915 Taylor Investment/Ross Lake/“Woodland” development road  
 200206738 Taylor Investment Polk Co road and 32-lot subdivision  
 200206585 Taylor Investments/Residential Area  
 200205926 R and I. Land Development Riprap  
 200205104 Taylor Investment Corp/Whitefish Lake Estates  
 200202983 Taylor Investment Corporation Trimhelle Acres res deve  
 200202736 Oak Ridge Preserve  
 200202434 Taylor Investment Corp - Vermilion Trail Estate  
 200201695 Taylor Investment aerator  
 200201089 Taylor Investment – Mistwood Property  
 200106000 North Ten Mile Estates  
 200105743 Taylor Investment Corporation/Plat

200104351 Molzan/Juniper Shores  
200103951 Johnson's Point Plat  
200102757 Pickrel Lake Shores/Thor  
200102007 Taylor Investment -- Rivers Edge Dev.  
200100992 Taylor Investment -- Spirit River Flowage  
200007014 Taylor Investment Corp.  
200006730 Taylor Investment - Terry Wiley  
200006296 Taylor Invest. Corp of WI -- Bridge Uk Trib McKinley Lake  
200006114 Fishs Island Lake Shores plat development  
200004885 East Silent Lake Shores/Wagener  
200004883 Glawe Beach  
200004533 Beauty Lake Estates/Hubbard County  
200002744 East Silent Lake  
200002446 Taylor Investment -- Landing Lake  
200001792 Jessie Lakes Estates  
200000613 Four Seasons Scott Lake outlet road  
200000409 Taylor Investment -- Baker Lake  
199807367 Taylor Investment Corporation -- road  
199804159 Taylor Investments Bridge  
199803543 Taylor Investment -- White Ash Lake  
199801431 Taylor Investments Walsh Lake Development  
199706109 Taylor investment crossing  
199705391 Taylor Investment Corporation -- unnamed Tributary  
199704582 Engle Estates Development  
199703906 Taylor Investment Aeration System  
199703226 Helen/Tank Lake Development road by Taylor Investment  
199703207 Pleasant Lake Estates  
199702507 Taylor Investment -- Spirit River Flowage  
199604923 Preliminary Plat  
199604381 Taylor Investment at Kathryn Lake  
199603190 East Indian Shores  
199602828 TAYLOR INVESTMENT  
199602232 Walsh Ridge Estates  
199508030 Taylor Investment -- access off Sheep Camp Road  
199508030 Taylor Investment -- access off Sheep Camp Road  
199507746 Ridgewood Estates  
199507411  
199505484  
199503842 Taylor Investment project - Lotus Lake  
199503615 Buteau -- Long Lake in Harrison Hills  
199503099 Taylor Inv. Corp.  
199501736 Taylor Investment Corp.  
199501735 Tylor Investment project  
199501731  
199501327 Lawrence Lake property  
1995001079

199407140  
199406914  
199406096 Upgrade a Private Road  
199405589 Maurice Baltes Estate  
199403971 Carey Cove Development  
199402967 Wilderness Retreat Palm  
199304557  
199302453 PAINE LAKE POINTS  
199302294 OX LAKE HOUSING DEVELOPMENT  
199301777  
199300927  
199206069 LEECH LAKE DEVELOPMENT  
199200926  
199190273 TAYLOR INVESTMENT CORPORATION  
199162673 TAYLOR INVESTMENT  
199162658 TAYLOR INVESTMENT CO  
199062192 TAYLOR INVESTMENT CO  
199000767 TAYLOR INVESTMENT CORP  
198963182 TAYLOR INVESTMENT CO  
198962951 TAYLOR INVESTMENT CO  
198901017 TAYLOR INVESTMENT CORP  
198860928 TAYLOR INVESTMENT CO  
198800869 TAYLOR INVESTMENT CORP  
199800549 TAYLOR INVESTMENT CORP  
199800136 TAYLOR INVESTMENTS  
199800108 TAYLOR INVESTMENT CORP  
198660107 TAYLOR INVESTMENT CO

---

The Daily Register - IL -- March 1997

[www.dailyregister.com/outdoors/stories/kinkaid032997.html](http://www.dailyregister.com/outdoors/stories/kinkaid032997.html)

(archived at [http://www.zeninfo.com/directory/Taylor\\_Phil\\_20062890.htm](http://www.zeninfo.com/directory/Taylor_Phil_20062890.htm))

At Kinkaid, A Developer Wants Cash Again

By Joe McFarland

American News Service

MURPHYSBORO (March 28, 1997) -- Two years after a proposed housing development was nixed by the state at Kinkaid Lake near Murphysboro, the developer who attempted the business deal is demanding more than 3 million dollars from the local conservancy district.

Phil Taylor, president of Taylor investments of Minneapolis, Minn. claims the failed building deal to put hundreds of houses on the shore of Kinkaid Lake cost him more than

\$3 million dollars in lost profits, a turn of events for which he is suing the lake's government managers for breach of contract.

A January letter from Taylor's lawyers to the Kinkaid-Reeds Creek Conservancy District seeks \$3.6 million dollars to compensate Taylor for profits he expected to make by leasing the building sites at the Jackson County lake. The forested lake property is jointly owned and managed by the Department of Natural Resources, The Shawnee National Forest and the conservancy district.

An April, 1994 contract signed between Taylor and the conservancy district would have allowed Taylor a 50-year lease on certain Kinkaid land owned by the district and the former Department of Conservation.

Taylor said at the time he intended to develop the land to include as many as 2,000 homesites and would build a golf course and lodge at some later date. However, considerable public opposition developed after the proposed deal became public in early 1995, and the state refused to allow the land to be transferred to Taylor effectively blocking the project.

In a letter denying the land, Department of Conservation (now DNR) Director Brent Manning said Taylor's proposal did not meet the terms of the 1981 Big Kinkaid Creek Project Agreement, "nor does it comport with Illinois law."

DNR spokeswoman Carol Knowles said Wednesday that Taylor as never responded to Manning's letter.

Taylor also did not respond to messages regarding the lawsuit left at his office this week. Conservancy officials say only that they do not intend to pay the \$3.6 million. All of this has proven to be an unexpected topic to discuss at the annual meeting of a local grassroots organization called Friends of Kinkaid Lake, which formed during the original controversy.

"Now we'll really have something to talk about," says Dianna Exner, club secretary.

The meeting, scheduled for Tuesday, April 8 at 7 p.m. at the Murphysboro High School Auditorium, also will discuss the possibility of elk being reintroduced here.

© 1998 Liberty Group Publishing  
Comments to Joe McFarland

---

Daily Times - TN - 10/22/2005  
<http://www.thedailytimes.com/sited/story/html/220654>

Developer Sucs County

by Lesli Bales-Sherrod  
of The Daily Times Staff

It's deja vu all over agnin.

Naterra Land, owner of The Homestead development that straddles the Blount and Sevier county lines, filed suit against Blount County and the Blount County Planning Commission again Friday.

The new suit in Blount County Chancery Court takes the place of the one the company filed against the Planning Commission in July, said Naterra attorney Arthur Seymour Jr. That suit was filed after the Planning Commission denied the preliminary plat of The Homestead Phase 2 on May 26.

Now the company is suing over the Planning Commission's Sept. 22 denial of the same preliminary plat. The plat was before planning commissioners a second time because Naterra was granted a variance by the Blount County Board of Zoning Appeals, but planning commissioners took action that night to make that variance "null and void."

The new suit still claims the denial of Phase 2 was "arbitrary and capricious" because the Planning Commission changed the county's subdivision regulations after Phase 2 was first proposed and then refused to grandfather the development. East Millers Cove Road, which leads to the Blount County side of the development, does not meet the new standard of 18 feet with 2-foot shoulders, and Naterra is unable to obtain from property owners the right of way necessary to widen the road.

"It is unfair to change the rules in midstream, full well knowing we were going to develop," Seymour said in a telephone interview Friday. "It is impossible for us to comply with their regulations."

The new suit goes a step further, however, challenging also the commissioners' "failure to recognize a valid variance as granted by" the BZA. The suit notes that Planning Commissioner Rick Brownlie, who made both motions Sept. 22 to declare the variance null and void and to deny Phase 2, signed a petition regarding The Homestead before he became a planning commissioner. The petition dated June 15, 2004, is attached to the suit.

"Filing lawsuits is not the way we want to do business, but we are between a rock and a hard place and there is nothing else we can do," said Mel Lager, who joined Naterra as vice president last month. "We would be glad to work something out with the county and not have a lawsuit, but they left us no choice."

This is actually the third time the company, formerly called Four Seasons Properties, has sued for preliminary plat approval of The Homestead. Phase 1 was approved in May 2004 after a Knox County judge ruled the denial "arbitrary" and remanded the matter to the planning commission for reconsideration.

### Phase 1 almost ready

While Phase 2 is tied up in court, Phase 1 is coming right along, Lager said Friday.

The roads are in, but lack paving, Lager explained on a tour of the Blount County side of the development Friday. Therefore, Naterra will be back before the Planning Commission Thursday, asking for another six-month extension of the Phase 1 preliminary plat.

An initial six-month extension was granted March 24.

According to an Oct. 15 memo from the Blount County Planning Department to planning commissioners, planning staff will recommend Thursday for renewal of the Phase 1 preliminary plat.

Lager said he intends to file for final plat approval of Phase 1 in time for the December planning commission meeting. If approved, Naterra will start marketing those 40 lots as early as January, he added.

On the Sevier County side of the development, 55 homes are completed or under construction, said Regional Sales Manager Ed Garrett. About 290 home sites on the Sevier County side have been sold, he added, and the development boasts owners from 26 states as well as Canada and Switzerland.

### New VP looks to future

A month into his new job as vice president and general manager Naterra's Tennessee properties, Lager said he is looking to the future.

"I can't go back and change anything in the past," Lager said Friday. "But given the same information, reasonable people will come to the same conclusions."

Lager formerly served as the vice president and general manager of ALCOA Inc. He left the company in May to open his own consulting company, which he still maintains.

Lager said he joined Naterra for two reasons: because he wanted to stay in East Tennessee and because he believes in the company's vision.

"I value that the company has been a steward of the land and continues to protect the environment," he said. "You're not going to stop development, but I know we're going in there and doing the right thing."

---

The Daily Times - TN - 7/2005

<http://www.thedailytimes.com/sited/story/html/213640>



Tuesday, challenging the planning commission's May 26 denial of its Phase II preliminary plat.

The company -- which changed its name earlier this year from Four Seasons Properties to Naterra Land -- also filed suit in 2003, after planning commissioners denied its Phase I preliminary plat.

The Phase I preliminary plat was approved in May 2004 after a Knox County judge ruled the denial "arbitrary" and remanded the matter to the planning commission for reconsideration.

Now Naterra Land is asking that planning commissioners' denial of the Phase II preliminary plat also be ruled "arbitrary" because the denial was based on the county's subdivision regulations as they exist now, not as they existed when Phase II originally was proposed in April 2004.

The change in the county's subdivision regulations took place in January 2005, when planning commissioners approved new road-width regulations of 18 feet with 2-foot shoulders on each side. East Millers Cove Road, which leads into the Blount County side of the development, does not meet those standards.

Naterra Land asked planning commissioners in January to "grandfather" existing developments from the new road-width regulations, but planning commissioners did not.

Naterra Land notes in the lawsuit that Phase II was before the planning commission "on several previous occasions" -- it was pulled from the agenda three times and deferred four times -- while the company tried to resolve the road issues.

With neighboring land owners refusing to sell the necessary right of way, Naterra Land first asked the Blount County Commission to use eminent domain to condemn the land, but commissioners refused.

Naterra Land later offered to gate the development and, finally, proposed paying \$500,000 of the \$507,000 estimated for road improvements.

Still, planning commissioners denied the Phase II preliminary plat 7-2, with one planning commissioner recusing himself and two absent.

The suit alleges the planning commission created "an impossible condition" by requiring The Homestead to meet new road-width regulations when Naterra Land cannot gain the necessary right of way.

Further, the suit contends that the strict application of the new road-width regulations violates both the federal and state constitutions "as it constitutes a taking of (Naterra Land's) property without just compensation."

For that reason, the suit asks that the new road-width regulations be ruled unconstitutional.

"It is impossible for (Naterra Land) to acquire right of way from landowners who have stated for the record that they are unwilling to sell their property," the suit states. "Therefore, the planning department's recommendation that the developer secure rights of way and widens the entire length of ... East Millers Cove Road from development entrance to Old Walland Highway is illegal and unenforceable."

Blount County Planning Director John Lamb received the suit Wednesday and handed copies of the suit to planning commissioners at their meeting Thursday night.

Planning commissioners did not discuss the suit.

#### The development

The Homestead is a 2,000-acre development that straddles the Blount and Sevier county lines, with 1,200 acres in Blount. Although the main entrance is located off Wears Valley Road in Sevier County, the development must connect to East Millers Cove Road to meet Blount County regulations for inner looping.

Phase I, which consists of 40 lots on 120 acres, is under construction.

Phase II also consists of 40 lots on 120 acres.

Upper Peninsula Power Company Boney (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 78*

21 May 2007

**COMMENTS FROM MENOMINEE COUNTY BOARD OF COMMISSIONERS,  
SUBMITTED BY BARBARA MORRISON, COUNTY CLERK**

*"Menominee - Where the best of Michigan begins"*

**ORIGIN:**

# MENOMINEE COUNTY BOARD OF COMMISSIONERS

OFFICE OF THE  
SECRETARY

*Menominee County Courthouse  
839 10th Avenue  
Menominee, Michigan 49858-3000*

*Brian Neumeier - County Administrator  
Jamie Wenzel - Administrative Assistant  
Telephone: (906) 863-7779 or 863-9648  
Fax: (906) 863-8839*

2007 JUL 23 P 2: 38

**MENOMINEE COUNTY BOARD OF COMMISSIONERS  
RESOLUTION 07 - 09**

**WHEREAS**, Upper Peninsula Power Company has unveiled Shoreline Management Plans for project lands at its five hydroelectric projects (Numbers: 2402, 10854, 2506, 10856 and 1864) located in numerous U.P. counties, and,

**WHEREAS**, the Shoreline Management Plans include proposals to protect the environment and enhance recreational opportunities for citizens at the flowages, as well as ensure that proposed activities are consistent with the purposes of protecting and enhancing the scenic, recreational and other environmental values of each project; and,

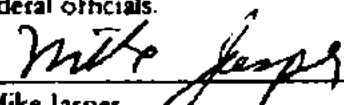
**WHEREAS**, these draft plans were developed based on more than 14 months of input from state and federal resource agencies, local government officials and the public. In addition, UPPCO conducted focus groups consisting of various stakeholders, including representatives from county and township boards, hunting and fishing interests, outdoor enthusiasts and economic development. UPPCO also conducted public meetings and invited comments from citizens concerning the plans. The company also engaged the public over many months regarding plans to sell UPPCO private property at the five hydroelectric projects; and,

**WHEREAS**, the flowages these Plans address will continue to be open for people to use alongside numerous acres of U.P. acres already available to citizens; including state and federal lands such as the Hiawatha and Ottawa National Forests that are off limits to development; and,

**WHEREAS**, it is projected that any development resulting from the sale of property at the projects will over time assist the U.P. construction trades industry, help local businesses and grow local tax bases to the benefit of schools, as well as township and county units of government and the programs and services they provide to citizens. Broadening the tax base in U.P. counties is welcomed, recognizing the state's current financial status and economic outlook; now therefore,

**BE IT RESOLVED**, that the Menominee County Board of Commissioners hereby approves this resolution of support for the Plans with the expectation that UPPCO will continue working with local units of government and other stakeholders as the process continues and directs that a copy of this document be transmitted to U.P. Power Company and appropriate state and federal officials.

  
\_\_\_\_\_  
Jim Lynch  
County Board Chairperson

  
\_\_\_\_\_  
Mike Jasper  
Deputy County Clerk

5-21-07  
Date

5-21-07  
Date

*Jim Lynch - Chairperson*

*Greg Furmanski - Vice Chairperson*

*Bernie Lang*

*Floyd Berger*

*Bill Kakuk*

Moved by Com. Berger seconded by Com. Furmanski that the resolution be adopted. Date May 21<sup>st</sup>, 2007

Ayes 5                      Nays 0                      Absent None

I, Barbara Morrison, the duly qualified and acting Clerk of Menominee County, do hereby certify that the following resolution was adopted at a meeting of the county Board of Commissioners held on May 21st, 2007; is on file, has not been amended, altered or revoked; and is in full force and effect

  
Barbara Morrison, County Clerk

Upper Peninsula Power Company Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 79*  
21 May 2007  
COMBINED AGENCY COMMENTS ON DRAFT SMPs

Michigan Hydro  
Relicensing Coalition



May 21, 2007

Shawn Puzen  
Upper Peninsula Power Company  
P.O. Box 19001  
Green Bay, WI 54307-9002

RE: Resource agency comments on draft Shoreline Management Plans (FERC Project Numbers 1864, 10854, 2506, 2402, and 10856)

Dear Mr. Puzen:

Please find enclosed combined comments from the Michigan Department of Natural Resources, U.S. Forest Service Hiawatha and Ottawa National Forests, National Park Service, U.S. Fish and Wildlife Service, Michigan Hydro Relicensing Coalition and Keweenaw Bay Indian Community (collectively referred to as "Resource Agencies") on the draft Shoreline Management Plans (SMPs) for Federal Energy Regulatory Commission (FERC) hydroelectric projects 1864, 10854, 2506, 2402, and 10856. These comments are provided by the Resource Agencies in consultation with Upper Peninsula Power Company (UPPCO) as part of the FERC Shoreline Management Planning process. The overarching goal of the agencies in this process is to assure that any non-project use of project lands does not compromise the integrity of the licenses in place. All Resource Agencies are not involved in every project; therefore, we are providing Table 1 (attached) to clarify agency involvement.

In summary, the SMPs identify various zones around each basin where different types of non-project and project uses would be allowed. Types of non-project use of project lands discussed in the SMPs include installation of trails, access pathways, basin view corridors, public and private boat docks, and other recreational enhancements. The classification areas presented in the SMPs were Project Operations, Conservation, Enhanced View, Pathway Access, and General Use/Formal Recreation. Project Operations areas include those lands that are necessary for electrical generation or transmission. According to the SMP, Conservation Areas were intended to be set aside to protect important natural resource features and would allow for development of trails. Some of the basins would also have enhanced view areas where brush and tree limbs could be removed to allow views from a residence to the water. Pathway Access areas allow

installation of pathways (or paths) from non-project lands through project lands thereby facilitating access to docks. The installation of buried electrical lines for dock lighting is also proposed in the Pathway Access areas. General Use/Formal Recreation Areas would allow dock placement, construction of paths and roads, cutting of enhanced view areas, and construction of recreational facilities. The SMPs suggest that increased public use of these basins is anticipated as a result of implementation of these non-project related activities.

We appreciate the close communication between the Resource Agencies and UPPCO during the development of the SMPs. Much of this communication is evidenced in the SMPs Appendix A: Record of Agency and Public Collaboration, although several documents were not included which provide important information on the consultation process; these documents should be included in the final SMPs (see Appendix for missing documents). Some of the language in the SMPs, however, suggests that the documents were created in collaboration with the Resource Agencies. We believe this language overstates our involvement and participation in drafting the SMPs. We clarify that the draft SMPs are solely the product of UPPCO and remind UPPCO that our involvement, communication, and comments do not imply endorsement.

We have identified several potential issues of concern with respect to the draft Shoreline Management Plans. These issues are discussed below under specific comments for FERC License and Plan Consistency, Environmental Studies and Shoreline Zones, Potential Impacts to Environmental Resources, and SMP Implementation. The following points summarize our detailed comments:

- Non-project related activities identified in the SMPs, such as trails, pathways, and docks, are not consistent with the FERC licenses or approved plans. New threats and resource impacts associated with these activities were not identified or mitigated in the original license or plans. New plans should be written concurrently with the SMPs to specifically address these new threats.
- The Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources (Environmental Studies) conducted by E/PRO either lacked information on important aquatic and forest related resources or did not follow recommended agency protocol for collecting such data. This lack of reliable data makes it difficult to fully understand the impacts of various activities along the basins' shorelines. This requested information needs to be provided and UPPCO needs to clearly show how all environmental study data was utilized in developing appropriate shoreline zones.
- Non-project related activities have the potential to impact fish, wildlife, recreation and aesthetic resources on each of the basins by direct habitat loss, fragmentation, and increased human disturbance. These impacts need to be analyzed and discussed in the SMPs.
- Monitoring and enforcement plans should be developed concurrently with the SMPs, with input from the Resource Agencies. Updates of the SMP should be completed every five years reflecting new information and changed conditions discovered through monitoring. These updates should be prepared with the agencies and re-filed for FERC



approval.

### **FERC License and Plan Consistency**

The SMPs suggest that, outside of the Recreation and Land Use Plans, many of the management plans for each project do not need amendments. We have found multiple inconsistencies among the licenses, associated plans, and SMPs (Table 2, 3, 4, 5, and 6). We believe that most management plans need to be rewritten to incorporate the new threats associated with SMP implementation.

The existing plans were written to help protect or enhance a variety of natural resources associated with each project. When these plans were written, significant resource threats were almost solely from forestry operations within the project boundaries. Development of project lands through trails, public and private docks, new recreational facilities, and enhanced view corridors, were not anticipated during the relicensing process. Therefore, the impacts associated with SMP implementation were not considered during development of the plans. As part of the SMP process and concurrent with SMP development, these management plans must be rewritten to help protect resources from these new threats.

### **Shoreline Classification Areas and Environmental Studies**

#### *Conservation Area*

According to the SMPs, the Conservation Areas were intended to protect important natural resource features at each basin. With the limited information provided in the SMPs, however, we identified several examples where important resources were not protected or included in a Conservation Area. For example, at Au Train the entire area designated as a Wildlife Refuge by Michigan Department of Natural Resources (DNR) was not included in a Conservation Area. There are instances at all the basins where important resources such as wetlands, loon nesting habitat, areas of high aesthetic value, and bald eagle roosts were not included in a Conservation Area. Without being included in a Conservation Area, some of these resources are likely to be detrimentally impacted by the various proposed activities.

If Conservation Areas are being set aside for conservation purposes, it is inappropriate to incorporate trails into these zones. Vegetation removal and increased human use of these areas as a result of trail placement could impact sensitive species (e.g., loons, eagles, and osprey). Reducing human disturbance is noted as a key priority for protecting these species in many of the license's management plans (Table 2, 3, 4, 5, and 6). Conservation Areas should protect sensitive environmental resources and provide areas where these species could be expected to thrive. Although access to Conservation Areas should be allowed, it should not be encouraged through the development of trails.

Additionally, the Conservation Areas are fragmented by zones of higher development and higher human activity such as the Pathway Access and General Use/Recreation zones. Michigan's Wildlife Action Plan (Eagle et al. 2005) identified habitat fragmentation, the division of contiguous landscapes into habitat patches, as the highest priority threat to wildlife habitat in

Michigan. Numerous studies discuss the risk of habitat fragmentation, including Hawbaker et al. (2005) who describes the fragmentation of forested landscapes across Northern Wisconsin from 1937-1999. In a related study, Robinson et al. (1995) described the negative effects of forest fragmentation on nesting migratory birds, including several rare or declining species in our region. The fragmentation by trails and access pathways areas make these habitat areas less valuable and functional than a contiguous area. Even what may be deemed minimal disturbances (e.g., placement of a road or path) may be detrimental, especially to less mobile species such as reptiles and amphibians. To avoid fragmentation, it is recommended that large tracts of land are protected (Askins 1995). Fragmenting the Conservation Areas with public paths and trails also increases the risk of introducing non-native invasive species due to the heavy human use at many points around the shoreline. For these reasons, UPPCO should consider consolidating Conservation Areas and reducing fragmentation by consolidating or reducing the number of proposed new trails, Pathway Access, and General Use/Recreation Areas.

### *Environmental Studies*

As the basis for developing the SMPs, you completed Environmental Studies for each basin in summer 2006. We believe these studies were inadequate in several respects (see agency comments on Study Scopes May 19, 2006 and agency comments on E/PRO Reports, August 28, 2006). Many of the agency comments were summarily rejected or not adequately addressed. As such, the final Environmental Studies have many deficiencies which limit their usefulness as a tool for protecting important resources.

With limited substrate data and no bathymetric data for the basins, we are unable to determine if proposed dock locations protect important fish spawning and waterfowl foraging areas. In fact, based on anecdotal information provided by tribal fishermen, several General Use/Formal Recreation zones would include areas that are important to walleye spawning and may impact tribal spearing opportunities at Bond Falls and Prickett (A. McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission, personal communication; G. Mensch, Keweenaw Bay Indian Community, personal communication). Without more detailed substrate and bathymetric information for each basin, it is impossible to identify the degree of impacts to fisheries and wildlife habitat which would likely result from proposed dock placement.

In our comments on the Scope of Services for the Environmental Studies, we requested that you identify high value or rare forest types within the project boundaries, including forest stands with old growth characteristics, stands that contain high-value mesic conifers (e.g., hemlock, white pine), and stands that contain red oak. In response, you stated that this information already existed through recently conducted timber surveys. This information, however, was not provided as part of the Environmental Studies and we must assume it was not utilized in development of the draft SMPs. We believe this information is needed to fully evaluate the impacts of non-project uses on high-value habitat areas.

With the limited information provided in the SMPs, it is not clear how information from the Environmental Studies was used in the shoreline classification process. Aerial photographs, with resource information overlaid, should be provided in the SMPs. It would also be helpful to provide a map showing the location of the resources and the proposed shoreline classification

areas.

### **Potential Impacts to Environmental Resources**

The SMPs suggest that environmental impacts would be neutral or potentially beneficial. The agencies suggest that there could be detrimental impacts to water quality, aquatic resources, wildlife, forest communities, recreation, and aesthetics as a result of implementing the SMPs. The impacts on these natural resources need to be articulated and analyzed within the SMPs. In many cases the FERC mandated management and monitoring plans for each project need to be re-written in order to address the new threats and impacts associated with the proposed non-project use of project lands.

#### *Water Quality*

Potential long-term effects on water quality could arise from increased boating-related sources attributable to use of the proposed public and private docks and new boat launch facilities. In shallow water, motor boats are capable of disturbing bottom sediments leading to increased turbidity (Engel and Pederson 1998; Mosish and Arthington 1998). Additionally, increased use of motor boats intensifies the risk of water pollution due to uncontrolled release of fuel, motor oil, and exhaust fumes (Mosish and Arthington 1998). It is possible for these pollutants to remain in the sediment for long periods at levels toxic to fish and invertebrates (Asplund 2000). Given the number of boats likely to use the docks and boat launches, there would be a greater potential for accidental fuel spills, oil discharges, and leaks from normal boating operations. These additional sources of pollution would incrementally contribute to cumulative water quality impacts. To avoid these impacts, recreational boating should be limited by avoiding or minimizing the installation of docks.

The increased boating activity on these basins could create impacts to water quality that were not considered during the FERC relicensing process. Therefore, the water quality plan for each basin should be rewritten to include monitoring that would document parameters such as uncombusted fuel that may increase in the project waters as a result of non-project use of project lands. The new plan should include a mitigation or control strategy if water quality is impaired.

#### *Invasive Species*

As a result of non-project use of project lands, human activity on or adjacent to the basins is likely to increase. Increased vehicular, pedestrian, and boating use on project lands and waters brings a higher risk of movement and spread of non-native invasive species. The invasive species plans for each basin should be re-written to address the higher threat of introducing nuisance plants and animals. For example, Eurasian watermilfoil is typically introduced into water bodies via motorboats and increased boating on the basins will increase the potential for introduction and spread of this plant. It would, therefore, be prudent to do more frequent surveys for aquatic nuisance plants and animals than is currently required under the plans.

The risk of introducing terrestrial nuisance plants, including species not contemplated when the original plans were prepared, will also be greater as a result of non-project use of project lands.

Therefore, surveys for both aquatic and terrestrial invasive plants and animals should be given more emphasis than it is in the current plans, including more frequent surveys and an expansion of the surveyed list of nuisance species. At a minimum, garlic mustard, rusty crayfish, zebra mussel, quagga mussel, spiny water flea, curly-leaf pondweed, Eurasian watermilfoil, and purple loosestrife should be identified in the plans as a priority for survey and control. The plans should also specify that UPPCO will consult with the agencies annually to determine if there are new invasive plants and animals of concern that need to be included in future surveys.

We support your recommendation to incorporate additional invasive species signage at each basin. This effort also should be added to each basin's nuisance species management plan along with the point that additional efforts may be necessary in the future to reduce the introduction and spread of non-native invasive species.

#### *Aquatic Resources*

The placement of public and private docks, new boat launches, and subsequent increases in boating activities anticipated with the implementation of the draft SMPs could have adverse impacts to aquatic plants, fish, and other species. Lakeshore development is well known to negatively impact fish and plant species in northern temperate lakes (Jennings et al. 1999; Schindler et al. 2000; Hatzenbeler et al. 2004; Scheuerell and Schindler 2004). Development of the shoreline and increased recreational use of a water body will result in reduced availability of woody material, aquatic vegetation, and coarse substrate (Christensen et al. 1996; Radomski and Goeman 2001; Hatzenbeler et al. 2004; Jubar 2004). Many fish species exhibit strong preferences for coarse spawning substrate while others prefer wood structure or vegetation (e.g., bluegill, walleye, muskellunge, largemouth bass, and smallmouth bass). Shoreline alteration, through placement of docks and vegetation removal, may reduce suitable spawning habitat and result in greater substrate embeddedness through the introduction of fine materials (Jennings et al. 2003). The reduction in available substrate will impair the ability of fish to use nearshore habitat for spawning, foraging, and refuge during various life stages.

Corresponding with an increase in lakeshore development, several studies found a decrease in aquatic vegetation (Radomski and Goeman 2001; Jennings et al. 2003; Hatzenbeler et al. 2004; Jubar 2004). These decreases in vegetation may be attributed to increased recreational use, manual removal, or shading by docks. For example, Ostendorp et al. (1995) found that emergent plants decreased with increased wave action associated with recreational use of lakes. Radomski and Goeman (2001) found that lakeshore development in Minnesota contributed up to 28% reduction in emergent aquatic vegetation. In a related concern, it has also been found that the loss of native plants encourages the establishment of invasive species such as Eurasian watermilfoil and curly-leaf pondweed (Engel and Pederson 1998).

As previously noted, the Environmental Studies did not provide adequate data to determine important aquatic resource zones along the shoreline. In the case of aquatic resources, we previously recommended the collection of site-specific (GPS-mapped) data on littoral resources such as gravel lenses, woody structure, and aquatic vegetation. Instead, these resources were discussed only in general terms in the Environmental Studies. Therefore, we do not believe that the data utilized by UPPCO is of the quality and specificity needed to determine the

environmental impacts of any proposals seeking shoreline alterations, dock placement, or woody habitat manipulation.

### Carrying Capacity

The boating carrying capacity for each basin was calculated based on water surface area and the type of watercraft anticipated to be used. The calculation involved averages and range of boating densities which did not appear to be based on relevant literature (basins similar to the remote Upper Peninsula basins) or any on-the-ground observations. In our comments on the Environmental Studies, we noted that any meaningful calculation of boating carrying capacity needs to start with a determination of desired condition for each reservoir. Yet, this desired condition was not identified in the draft SMP as part of carrying capacity determination. Understanding and defining this future desired condition is a prelude to determining boating capacity, types of watercraft, and other appropriate recreational uses. We recommend using a decision making framework, such as Visitor Experience and Resource Protection (VERP; National Park Service, 1997) or Water Recreation Opportunity Spectrum (WROS; Haas, et al. 2004), to aid in identifying a future desired condition for each basin. These methods, widely accepted by State and Federal Resource Agencies and other entities involved in recreational planning, step through a process of identifying the significance of an area, the desired conditions (range of visitor experiences and resource conditions) for it, what combination of visitor experiences will best protect and enhance the water body values, and how to achieve and maintain the desired condition over time. This would include identifying possible management prescriptions for different shoreline zones, and then setting standards to be used for monitoring that would trigger management actions if standards were exceeded. Desired condition for each basin should be identified and should inform subsequent boat and dock related decisions (number of docks, public access sites, what types of boats). We are willing to work with you on developing a future desired condition for each basin using WROS or VERP. Without defining a future desired condition for each flowage, any assumptions made regarding watercraft capacity, type of watercraft, or other appropriate recreation is premature.

After reviewing the carrying capacity studies (which we believe need to be modified based on future desired condition) and draft SMPs, we noted instances where the calculations were based on flawed data and where conclusions were not incorporated into the SMPs. For example, the entire surface areas of Prickett and Au Train were inaccurately utilized in calculating boating carrying capacity. At Prickett, much of the basin has extensive snags and stumps which would reduce the usable water surface area. At Au Train, the entire surface area of the basin was utilized in determining carrying capacity although a significant portion of the basin is closed as part of a DNR wildlife refuge from September 1 to November 10. The AuTrain SMP suggests that the wildlife refuge was not factored into the carrying capacity analysis as the closing did not occur within the peak boating season. We again point out the error of this omission, as the extensive use of the basin by waterfowl hunters in the fall makes this one of the busiest boating period. Realistic calculations of water surface areas at each of the projects should be factored into boating carrying capacity estimates.

Further, we noted instances where the results of the carrying capacity study were not incorporated into the SMPs. According to the boating carrying capacity study, additional boat

docks are not appropriate at both Cataract and Victoria. Nonetheless, additional boat docks or slips are proposed in the Pathway Access Area at Cataract. Docks are not appropriate at Victoria as well, per the boating carrying capacity study assuming a 200' buffer and combined use. The carrying capacity is already exceeded by the number of boats originating from the public launch. Given this information, it is not clear why docks are being proposed on either of these basins.

### Docks

Docks could, depending on placement, have long term negative impacts on important fish, wildlife, and aesthetic resources. A study by Dahlgren and Korschgen (1992) determined that the installation of docks in areas of waterfowl breeding habitat forced waterfowl to move to less attractive sites. As previously discussed, dock placement can also impact fish spawning and nursery habitat. As nearshore habitat was not fully mapped, it is unclear how "dock zones" avoided these habitat areas. Anecdotal data provided by the Great Lakes Indian Fish & Wildlife Commission and Keweenaw Bay Indian Community (KBIC) suggests that on Bond and Prickett flowages, dock placement areas could overlap with important nearshore walleye areas. Without detailed substrate and bathymetry data, it is not possible to fully evaluate the extent of potentially significant adverse effects to aquatic resources. Such data is needed to determine if and where dock placement may be appropriate.

In order to further review dock and dock placement, we not only need more detailed aquatic resource information, but we also need valid carrying capacity estimates based on a desired future condition as discussed above.

### *Wildlife*

Implementation of the draft SMPs, including development of trails, pathways, new launch facilities, docks, and view corridors could impact important wildlife habitat through direct modification (cutting of small diameter trees for view corridors or paths), fragmentation, or human disturbance. Many neotropical migratory songbirds are especially sensitive to fragmentation of nearshore areas since fragmentation often results in the loss of ground cover and other habitats used for nesting, and may also lead to increased nest predation and nest parasitism (Austin 1961; Askins 1995; Robinson, et al. 1995; Engel and Pederson 1998; Lindsay et al. 2002). Cutting trees for trails, pathways, and view corridors could result in habitat fragmentation and loss of migratory bird nesting habitat.

Increased human use of the shoreline and flowages as a direct result of access pathways and dock placement also could negatively impact sensitive wildlife species. To protect disturbance sensitive species, Asplund (2000) recommends limiting human access to undisturbed shorelines that provide habitat for species such as loons, herons, turtles, and eagles. In addition, several studies have found that increased use of motor boats led to increased disturbance of nesting birds (Asplund 2000), with migratory birds being of most concern due to their increased energy needs and resulting delayed migration (Kahl 1991). The trails and pathways proposed in the SMPs will promote greater human activities around the basins and no proposed SMP zones would prohibit trails. Individual docks, dock clusters, and new launch facilities will allow greater boating activity on each basin, in turn creating more disruption to wildlife.

These impacts to wildlife would conflict with license and plan objectives which relate to protection of these species and their habitat. Implementing the draft SMP would also conflict with the general requirement in the licenses to protect and enhance the resource values at each project. In addition to not meeting the objectives of the existing licenses and plans, the SMPs as proposed would result in additional long-term degradation and loss of wildlife habitat. The impacts to wildlife resources should be clearly discussed in the SMPs. The projects' plans should also be rewritten to address the new wildlife threats and impacts associated with implementing the SMPs.

Species of Concern

All the project's licenses address several species of special concern including federal and state listed threatened or endangered species such as the bald eagle, gray wolf, common loon, wood turtle, and osprey. Increased human disturbance and modification of habitat associated with implementing the draft SMPs could result in negative impacts to these species. These negative impacts are not consistent with licenses and plans which articulate UPPCO's responsibility to protect and enhance habitat for these species.

Bald Eagle

All projects identify the need to protect and enhance habitat for bald eagles. This typically includes contributing to annual nest surveys, reducing human disturbance around nest sites, and protecting suitable habitat for eagles. At some basins, protection of forage and roost trees is also incorporated into the license and plans. The implementation of the draft SMPs could negatively affect eagles through increased human disturbance and direct modification of habitat.

The proposed conservation zones do not incorporate all nesting and foraging sites. Based on our review, it appears that only bald eagle nests which were active in summer 2006 were placed in the SMPs most restrictive conservation zone. In many situations, bald eagles utilize several nest sites in a general area and often switch activities among these nests year to year. This is true at Prickett and Au Train basins where one bald eagle pair has several nests on each basin. These alternate nest sites need to be incorporated into conservation zones. We consider nests to be "historic" only after ten years have passed without any nesting activity.

Bald eagle foraging areas and roost trees were not thoroughly documented in the Environmental Studies and, when documented, these areas were not protected in conservation zones. For example, it is noted in the Boney Falls Endangered and Threatened Species Management Plan that the basin is used extensively by foraging bald eagles. The Plan includes a map of the important foraging areas. All of these foraging areas were not incorporated into a conservation zone.

Increased human disturbance within project boundaries could impact foraging or nesting bald eagles. In addition to pedestrian activity along the shoreline on trails and pathways, the expected increase in watercraft activity may also adversely affect eagles. Studies have shown that bald eagles are affected by shoreline development (Buehler et al. 1991) and may be forced to spend

additional energy on feeding as their nests are moved further inland to avoid human disturbance (Fraser et al. 1985). The implementation of the draft SMPs would likely reduce eagle nesting attempts or nesting success on project lands in the future.

As currently proposed, implementation of the draft SMPs could adversely impact bald eagles and conflict with license objectives for protecting and enhancing bald eagle habitat. Increased boating activity, trails, pathways, and numerous docks are new threats to eagles which need to be clearly addressed in the SMP. In addition, eagle related management plans for each basin need to be re-written to address any new impacts.

### Gray Wolf

Gray wolves are found throughout the Upper Peninsula of Michigan. Since gray wolves move extensively throughout the area, it is presumed that project lands are utilized by wolves at least periodically. Gray wolves were recently removed from the list of federally threatened and endangered species, but still remain on the Michigan endangered species list.

The existing project management plans for gray wolves focus on reducing threats from logging activities including closing logging roads and protecting den and rendezvous sites. Given the proposed changes to project lands discussed in the SMPs, protective measures that address threats of logging activities on wolves are no longer relevant. The plans need to be re-written to incorporate new threats and impacts associated with SMP implementation. Increased human activity and disturbance of project lands, as well as associated non-project land development, may result in less utilization of these areas by wolves. The numerous new access points around the shoreline proposed by UPPCO in the SMPs, along with trails and other recreational enhancements around the flowage shoreline, would be in direct conflict with license direction and likely lead to irreversible degradation of wolf habitat.

As currently proposed, implementation of the draft SMPs could negatively impact gray wolf and conflict with license objectives for protecting and enhancing wolf habitat. Increased human disturbance associated with trails and pathways are new threats to wolves which need to be clearly addressed in the SMP. In addition, wolf related management plans for each basin need to be re-written to address any new impacts.

### Common Loon

Based on the Environmental Studies, common loon or common loon habitat was found at Au Train, Bond, Prickett, and Victoria basins during a one or two day visit to the basins. Only the Bond Falls license (Bond and Victoria basins) specifically identifies measures to protect and enhance habitat for loons. With loon habitat observed at Prickett and Au Train, we believe protection of loons at these basins is important and management plans are warranted.

Increases in human disturbance and boating activity as a result of SMP implementation would negatively impact loons. Loons are highly sensitive to human disturbance (Evers 2004). Loons are also known to be affected by both shoreline development, which often results in the removal of nesting material, and increased recreational use (Titus and VanDruff 1981; Evers 2004).



During our review, we also noted that not all high quality loon habitat was protected by a Conservation Area. For instance, only a portion of the high quality habitat at Bond Falls flowage would be placed in a Conservation Area with accompanying no-wake signs. Several other high quality loon areas on Bond Falls, however, are not protected in a conservation zone. In one location, where the agencies recommended loon platform placement, UPPCO proposed a cluster dock (see Figure 8-2 of the Bond Falls SMP).

As currently proposed, implementation of the draft SMPs could impact common loon and conflict with Bond Falls license objectives of protecting and enhancing loons and loon habitat. Increased watercraft activity and increased human disturbance associated with trails, pathways, docks, and new boat launch facilities are new threats to loons which were not addressed in the relicensing process. These impacts to loons need to be clearly addressed in the SMPs. The Bond Falls Wildlife Plan needs to be re-written to incorporate and consider these new threats to loons. Loon protective measures need to be added to Prickett and Au Train wildlife management plans.

#### Sturgeon (Prickett and Victoria)

Lake Sturgeon is listed as a state threatened species in Michigan. Currently there are only three known river spawning locations remaining for this species within the U.S. side of the Lake Superior basin. One of these spawning locations is just downstream of the Prickett dam on the Sturgeon River. Downstream of Victoria Dam on the Ontonogon River, there are ongoing efforts to restore a spawning population of lake sturgeon. Increases in boating activity on these basins could result in water quality degradation and impacts to downstream spawning adults, eggs, or larvae. The SMPs need to address potential impacts to lake sturgeon.

#### Old Growth Land Management

Each of the projects has an approved land management plan that refers either to management for old growth forest or protection of forest vegetation. In all instances, the proposed non-project uses of project lands and permitted activities would negatively affect old growth or other forest communities within the project boundaries. Therefore, these activities would be inconsistent with the FERC licenses and approved plans.

The licenses for Bond Falls and Cataract refer to management of the project lands for old growth. The DNR uses a working definition of old growth: "Old growth forests are those that approximate the structure, composition, and functions of native forests. These native conditions generally include more large trees, canopy layers, native species, and dead organic material." As proposed in the SMPs under Permittable Activities, cutting brush or small trees and removing tree limbs or dead organic material for paths and enhanced view areas would not be consistent with old growth forest development. Trenching along the paths to install electrical lines would also negatively impact old growth forest, as it would damage tree root systems and disrupt ground-level vegetation.

While AuTrain, Prickett, and Boney Falls projects do not have specific old growth management objectives, they have approved FERC plans that include provisions for protection of forest

vegetation. In each plan, project lands are to be maintained with a diversity of vegetation types and age classes to encourage wildlife use and preserve project aesthetics. Since the creation of enhanced view areas, trails, and pathways within project lands was not envisioned when these plans were written during relicensing, they need to be amended or rewritten to address these new threats.

### *Recreation*

#### Recreational Enhancements

Significant recreational enhancements are proposed in each SMP. According to UPPCO, these enhancements, in addition to what is provided for in each license, will assure that recreational access to the general public is provided as the land surrounding the project boundary is developed. UPPCO intended to site these recreational facilities to avoid sensitive environmental resources and to ensure that their use was consistent with existing FERC license plans.

The proposed recreational enhancements are inconsistent with the licenses. Many of the enhancements conflict with key license objectives, particularly those relating to protection of wildlife habitat, minimizing human use of the project shoreline, maintaining existing walk-in access for dispersed recreation, and protection of shoreline aesthetics. For example, the proposed Little Falls access point and parking area is located within one of the most environmentally sensitive areas along the Bond Falls shoreline. As noted in the Environmental Studies, the sand bank along the east side of the Little Falls Bay contains high quality wood turtle nesting habitat and wood turtles were observed in this area during the 2006 survey (wood turtles are a U.S. Forest Service Sensitive Species and also a State of Michigan Species of Concern due to declining populations). Two of the primary threats to wood turtles are poaching by humans and human disturbance of turtles during their nesting season. Additional human use of this area would conflict with the objective of protecting this rare species and its habitat.

To avoid unnecessary conflicts with the existing FERC license plans, the agencies recommend that recreational enhancements not be implemented at this time. While some of these enhancements such as public docks to alleviate use and crowding at public launches may be needed in the future, there is currently no demonstrated need. Because many of these enhancements may have negative environmental, recreational, and aesthetic impacts, recreational enhancements should only be considered when a need is indicated by the periodic recreational use assessment (FERC Form 80). Further, if it is demonstrated that recreational enhancements are warranted, the implementation schedule should not be tied to dock placement.

#### Impacts to Recreational Use

Currently, each of the projects is located in a rural, mostly forested landscape. Recreation, for the most part, is informal with many users participating in bird watching, fishing from boats and shore, or hunting. Many of UPPCO's recreation sites are primitive in nature and consist of a boat launch, canoe portage, and outhouse. The public has become accustomed to this type of recreational experience at all of these projects, and the existing licenses and license plans are written to provide this type of use. Current recreational uses, such as tribal fish spearing at

Prickett, could be negatively impacted by development of the project shoreline and installation of docks. Allowing the proposed non-project uses of project lands will result in a different recreational experience and, in some instances, conflicting use.

One of the Resource Agencies' concerns with the increased non-project use of the project lands is the negative impact to hunting. Hunting is very important to Michigan's rural economies. In 2001, 754,000 Michigan residents and non-residents spent \$490 million dollars on equipment, travel, and hunting licenses (U.S. Department of the Interior et al. 2001). Recreational hunting is especially important at the AuTrain project, which includes a 2,000 acre wildlife refuge that covers a significant portion of the southern basin. The DNR describes the AuTrain Basin Waterfowl Project as the most productive game lands in Alger County because of the diversity in cover types including northern forests, aspen, and cherry, all mixed with small and large openings that provide for excellent wildlife habitat. Although the AuTrain SMP states that the sale of non-project lands will not impact hunting practices because the Non-exclusive License Agreement will require designated homeowners to allow waterfowl hunting within 200 feet of their dwellings (State law prohibits hunting from within 450 feet of a dwelling without written permission from the owner), we are concerned that the designated locations only represent a small portion of the basin. Other flowages and surrounding shorelines also experience considerable use by hunters, particularly waterfowl hunters and upland game hunters. We maintain that proposed non-project uses of project land would restrict the ability of the public to participate in current recreational uses, including shoreline hunting.

#### *Wild Rice (Prickett Only)*

Prickett Reservoir has been identified by KBIC as a potential area for wild rice establishment. To date, there have been limited areas identified around Baraga and L'Anse where wild rice would be successful and where tribal members would have unhindered access. The potential for increased boating, water quality degradation, and non-native species introduction as a result of SMP activities could impede establishment of wild rice at this reservoir. Placement of docks and subsequent boating impacts may conflict with KBIC's culturally significant wild rice planting and harvest. Impacts to wild rice establishment at Prickett should be addressed within the SMP.

#### *Navigation Channel (Prickett Only)*

The resource agencies have previously expressed several concerns about removing stumps or snags from this reservoir (see August 28, 2006 agency comments). We believe it is premature to propose removal of stumps and snags from this water body prior to preparing a recreation opportunity analysis and establishing a "desired condition" for the reservoir (see our related comments under Carrying Capacity above). Until a desired condition is established and the appropriate types of water-based recreation for the reservoir are defined, the necessity of stump and snag removal is unknown. For example, if the primary recreational uses of the reservoir are fishing and observing nature with small watercraft (canoes, kayaks, small fishing boats), then the presence of stumps and snags would likely enhance the recreational experience and their removal would not be desirable. It should be noted that the primary use of the reservoir at the present time is primarily by this type of small watercraft.

Snags have considerable value for several bird species that nest in this area. Bald eagles and ospreys utilize some of the larger snags as places to perch or forage. The Prickett Bald Eagle Management Plan requires protection of important eagle habitat, which would include snags utilized by eagles. Several cavity-nesting bird species also utilize these snags. Removal of these nesting snags would result in a direct, negative impact to this unique habitat feature, as noted in the Prickett E/PRO Report (p. 3-25).

Further, flooded stumps and snags have considerable value as fish habitat and as a substrate for aquatic invertebrates, as previously indicated to UPPCO by the resource agencies. The revised (October, 2006) Prickett E/PRO Report Section 3.3.4 discusses the value of this wood to the fishery in the reservoir. This information, which indicates a probable decrease in benthic invertebrate production, fish growth rates, and fish production if flooded stumps and snags are removed, was not fully considered or utilized in the Prickett SMP. There is no analysis or discussion in the Prickett SMP of the direct, indirect, and cumulative effects of removal of flooded stumps and snags on the aquatic ecosystem, including fish.

Based on the above, the proposed removal of stumps and snags may be inconsistent with the license and license plans in several areas, including protection of natural aesthetics, protection of bald eagle habitat, and protection of wildlife and fish habitat.

#### *Aesthetics*

Activities associated with the SMPs, such as installation of docks, predicted increases in boat traffic, cutting of view corridors, and installation of trails could impact the aesthetics at each basin. Currently these basins are primarily remote flowages with few to no docks or other shoreline development and limited boating activity. Noise and visual disturbance from boating can impact the character of an area. In FERC's Guidance for Shoreline Management Planning at Hydropower Projects it states: "The licensee should have an idea of what the project's aesthetic resources are, areas of the project that are considered to have high aesthetic values, why those areas have high values, and who values the aesthetic resources. Aesthetic attributes that are commonly valued include vegetated shorelines, clean water, the presence of wildlife, and views of water. Conversely, licensees should have an idea of highly valued shoreline views that are threatened or have been degraded by past development."

It is unclear in the SMPs how the information on aesthetic resources was utilized in developing appropriate shoreline classification zones. Some of the highly scored aesthetic units identified in the Environmental Studies were not placed in Conservation Areas and could therefore be degraded by some level of development activity including construction of trails, pathways, formal recreation areas, or docks.

#### *Shoreline Erosion*

Increases in boating activity on these basins could result in greater shoreline erosion. It is well understood that motor boats may cause shoreline erosion through increased wave action (Engel and Pederson 1998; Mosish and Arthington 1998). Most shoreline erosion from boating is anticipated to occur in shallow and nearshore areas (Asplund 2000). The SMP should discuss

this potential for shoreline erosion. Shoreline erosion plans for each project should be re-written to address this new threat and incorporate monitoring and appropriate mitigation measures.

### *Wetlands*

There are various wetland types associated with each flowage both along the shoreline and slightly inland within the project boundary. According to Michigan's Wildlife Action Plan (Eagle et al. 2005), "Wetlands are vital for a variety of Michigan species: they provide important breeding, spawning, and nursery habitat for many fish species; nearly all of Michigan's amphibians are dependent on wetlands, particularly for breeding; they provide nesting sites for migratory waterfowl and nesting or foraging sites for a variety of landbirds, waterbirds, and waterfowl; and they are preferred by mammals such as muskrats, otter, and beaver." Protection of Michigan's varying wetland types is a conservation priority.

Some of the wetland areas identified as part of the Environmental Studies were not incorporated into Conservation Areas. Impacts to these wetlands could occur if they are filled to facilitate non-project uses of project lands. In addition, the SMP should discuss how nearshore wetland communities may be affected by increased boating activity. Wetlands within the project boundaries could be impacted as a result of implementing the SMPs.

### **SMP Implementation**

UPPCO should develop a SMP monitoring and enforcement plan concurrently with the SMPs, with input from the Resource Agencies. We also believe that the SMPs should be monitored and reviewed on a regular basis to determine their effectiveness. We recommend monitoring the following items as a minimum (this list may increase as the SMPs are developed and additional monitoring needs are identified): amount of undisturbed shoreline, changes in fish and wildlife habitat, fish and wildlife use of project lands and water, change in condition of buffer strip and project land vegetation, number of docks, number of boats launched, number of permit violations and how addressed, and changes in adjacent land use. We also recommend that, if agreement is reached on the Shoreline Classification System, the designated areas remain in place for the term of the license, with the exception that additional areas may be designated for conservation purposes if warranted (e.g., identification of sensitive species).

Implementation of the SMPs is also likely to require the development of road access to non-project and project lands. At Au Train, Bond Falls, Prickett and Victoria access through National Forest System lands may be needed. Obtaining approval and any required permits for access through National Forest System lands will need to be pursued directly with the Hiawatha National Forest for Au Train and with the Ottawa National Forest for Bond Falls, Prickett and Victoria. It is also important to note that this connected action needs to be fully disclosed and evaluated by FERC in any Environmental Assessment or Environmental Impact Statement they prepare in response to these SMPs.

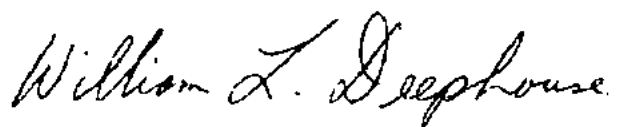
### **Summary**

In summary, non-project related activities as described in the SMPs are not consistent with

FERC licenses and management plans for the basins. Additional detailed aquatic substrate, bathymetry, and forest stand information is necessary to fully evaluate potential impacts to these resources. Based on the limited information provided, new threats and impacts to natural, aesthetic, and recreational resources are likely. We believe these new threats and impacts should be fully analyzed and discussed in the SMP. Furthermore, management plans need to be rewritten, with agency involvement and concurrent with SMP development, to address these new threats and impacts. Finally, we recommend incorporating a monitoring component into the SMPs.

We look forward to continued communication regarding the draft SMPs and encourage you to set up a meeting to discuss our above concerns.

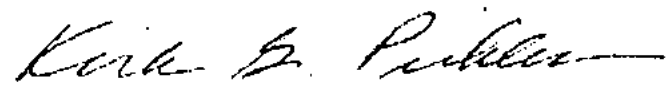
Sincerely,



William L. Deephouse  
Michigan Hydro Relicensing Coalition  
(906) 482-6607



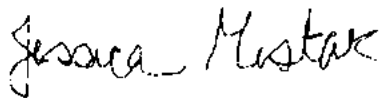
Christie M. Deloria  
Fish and Wildlife Biologist  
U.S. Fish and Wildlife Service; Upper Peninsula Sub-Office  
(906) 226-1240



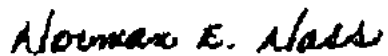
*FOR* Mike Lanasa  
Ecosystems Team Leader  
U.S. Forest Service; Hiawatha National Forest  
(906) 789-3379



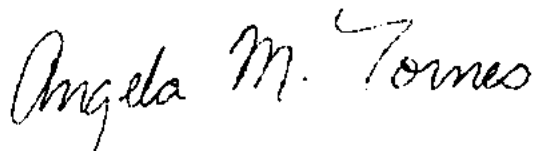
Gene Mensch  
Fish and Wildlife Biologist  
Keweenaw Bay Indian Community, Natural Resources Department  
(906) 524-5757 ext 12



Jessica Mistak  
Senior Fisheries Biologist  
Michigan Department of Natural Resources  
(906) 249-1611 ext. 308



Norman Nass  
District Ranger  
U.S. Forest Service: Ottawa National Forest  
(906) 358-4551 ext 14



Angela M. Tornes  
Regional Hydropower Coordinator  
National Park Service

Enclosures

Cc: John Estep, FERC  
Ann McManmon-Soltis, GI IFWC

## Literature Cited

- Askins, R.A. Hostile Landscapes and the Decline of Migratory Songbirds. *Science*: Vol 267, pp. 1956-1957. March 31, 1995.
- Asplund, T.R. 2000. The effects of motorized watercraft on aquatic ecosystems. Wisconsin Department of Natural Resources and University of Wisconsin, PUBL-SS-948-00.
- Austin, O.L. Jr. 1961. *Birds of the world: a survey of the twenty-seven orders and one hundred and fifty-five families*. Golden Press, N.Y. 316 pp.
- Buchler, D.A., T.J. Mersmann, J.D. Fraser, and J.K.D. Seegar. 1991. Effects of human activity on bald eagle distribution on the northern Chesapeake Bay. *Journal of Wildlife Management* 55:282-290
- Christensen, D.L., B.J. Herwig, D.E. Schindler, and S.R. Carpenter. 1996. Impacts of lakeshore residential development on coarse woody debris in north temperate lakes. *Ecological Applications*. 6: 1143-1149.
- Dahlgren, R.B. and C.E. Korschgen. 1992. Human disturbances of waterfowl: an annotated bibliography. U.S. Fish and Wildlife Service Resource Publication 188.
- Eagle, A.C., E.M. Hay-Chmielewski, K.T. Cleveland, A.L. Derosier, M.E. Herbert, and R.A. Rustem, eds. 2005. *Michigan's Wildlife Action Plan*. Michigan Department of Natural Resources. Lansing, Michigan. 1592 pp.
- Engel, S. and J.L. Pederson, Jr. 1998. The construction, aesthetics, and effects of lakeshore development: a literature review. Wisconsin Department of Natural Resources, Research Report 177.
- Evers, D. C. 2004. Status assessment and conservation plan for the Common Loon (*Gavia immer*) in North America. U.S. Fish and Wildlife Service, Hadley, MA.
- Fraser, J.D., L.D. Frenzel, and J.E. Mathiesen. 1985. The impact of human activities on breeding bald eagles in north-central Minnesota. *Journal of Wildlife Management* 49: 585-592.
- Haas, G., R. Aukerman, V. Lovejoy, and D. Welch. 2004. *Water Recreation Opportunity Spectrum Users Guidebook*. U.S. Dept. of Interior, Bureau of Reclamation, Office of Program and Policy Services. Denver Federal Center, Lakewood, CO. July, 2004.
- Hawbaker, T.J., V.C. Radeloff, M.K. Clayton, R.B. Hammer, and C.E. Gonzalez-Abraham. 2005. Road Development, Housing Growth, and Landscape Fragmentation in Northern Wisconsin: 1937-1999. *Ecological Applications*: Vol 15, No. 5, pp. 1504-1514.
- Hatzenbeler, G.R., J.M. Kampa, M.J. Jennings, and E.E. Emmons. 2004. A comparison of fish



- and aquatic plant assemblages to assess ecological health of small Wisconsin lakes. *Lake and Reservoir Management* 20: 211-218.
- Jennings, M.J., M.A. Bozek, G.R. Hatzenbeler, E.E. Emmons, and M.D. Staggs. 1999. Cumulative effects of incremental shoreline habitat modification on fish assemblages in north temperate lakes. *North American Journal of Fisheries Management* 19: 18-27.
- Jennings, M.J., E.E. Emmons, G.R. Hatzenbeler, C. Edwards, and M.A. Bozek. 2003. Is littoral habitat affected by residential development and land use in watersheds of Wisconsin lakes? *Lake and Reservoir Management* 19: 272-279.
- Jubar, A.K. 2004. Quantifying effects of residential lakeshore development on littoral fishes and habitat: toward a framework for lake ecosystem conservation. Master's thesis. Michigan State University, East Lansing.
- Kahl, R. 1991. Boating disturbance of canvasbacks during migration at Lake Poygan, WI. *Wildlife Society Bulletin* 19(3): 242-248.
- Lindsay, A.R., S.S. Gillum, M.W. Meyer. 2002. Influence of lakeshore development on breeding bird communities in a mixed northern forest. *Biological Conservation* 107(2002): 1-11.
- National Park Service. 1997. *VERP: The Visitor Experience and Resource Protection (VERP) Framework – A Handbook for Planners and Managers*. USDI National Park Service, Denver Service Center, Denver, CO.
- Ostendorp, W., C. Iseli, M. Krauss, P. Krumscheid-Plankert, J.L. Moret, M. Rollier, and F. Schanz. 1995. Lake shore deterioration, reed management and bank restoration in some Central European lakes. *Ecological Engineering* 5: 51-75.
- Radomski, P., and T.J. Goeman. 2001. Consequences of human lakeshore development on emergent and floating-leaf vegetation abundance. *North American Journal of Fisheries Management*. 21: 41-46.
- Robinson, S.K., F.R. Thompson, T.R. Donovan, D.R. Whitehead, and J. Faaborg. 1995. Regional Forest Fragmentation and the Nesting Success of Migratory Birds. *Science* 267 (5206), pp. 1987-1990. March, 1995.
- Scheuerell, M.D., and D.E. Schindler. 2004. Changes in the spatial distribution of fishes in lakes along a residential development gradient. *Ecosystems*. 7: 98-106.
- Schindler, D.E., S.L. Geib, and M.R. Williams. 2000. Patterns of fish growth along a residential development gradient in north temperate lakes. *Ecosystems*. 3: 229-237.
- Titus, J.R. and L.W. VanDruff. 1981. Response of the common loon to recreational pressure in

the Boundary Waters Canoe Area, northeastern Minnesota. *Wildlife Monographs* 79  
(Supplement to *Journal of Wildlife Management* 45:1-60).

U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce,  
U.S. Census Bureau. 2001 National Survey of Fishing, Hunting, and Wildlife-Associated  
Recreation.

Table 1. List of organizations and their involvement with Upper Peninsula Power Company owned Bond Falls, Victoria, Prickett, AuTrain, Boney Falls, and Cataract basins. These basins are regulated under Federal Energy Regulatory Commission licenses.

Organization Name	Basin Name					
	Bond Falls	Victoria	Prickett	AuTrain	Boney Falls	Cataract
Michigan Department of Natural Resources	X	X	X	X	X	X
U.S. Fish & Wildlife Service	X	X	X	X	X	X
U.S. Forest Service - Hiawatha National Forest				X		
U.S. Forest Service - Ottawa National Forest	X	X	X			
National Park Service	X	X	X	X	X	X
Michigan Hydro Releasing Coalition	X	X	X			
Keweenaw Bay Indian Community	X	X	X			

Table 2. AuTrain License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
404	Noxious Plant Monitoring Plan	Monitor and control for Eurasian watermilfoil and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies.
405	Bald Eagle Management Plan	<p>Protection of current nests, areas of medium to high potential for nesting, abandoned nests, historical nesting areas, and blown down nests.</p> <p>Protect existing and potential habitat, including nesting sites, perch trees, and roosts. In the plan, the entire basin is classified as potential bald eagle habitat.</p>	<p>The description of Article 405 needs to include protective zones around all eagle nests- active and inactive- rather than only nests that have seen activity within the last year.</p> <p>Non-project use of project land will result in negative impacts to bald eagle habitat and nesting success.</p>
406	Wildlife Management Plan	<p>Protection of environmentally sensitive areas by 1) forest habitat management and development, 2) waterfowl management, and 3) endangered or sensitive species management</p> <p>Minimize impact to the buffer zone, increase the overall number of waterfowl using the project, and protect sensitive species</p> <p>Maintain the forest with a diversity of vegetation types and age classes and protect cavity nesting and super canopy trees.</p>	<p>Not all environmentally sensitive areas, including wetlands and high value forest types, are protected by the proposed shoreline classification.</p> <p>Non-project use of project land will result in negative impacts to the buffer zone and less waterfowl use and protection of sensitive species.</p> <p>Any cutting of vegetation within the buffer zone will conflict with this objective.</p>
407	Land Management Plan	Fruit and mast bearing trees and shrubs will be retained for the enhancement of wildlife; lowland stands of conifers for winter cover of white-tailed deer will be maintained; and hollow, wolf trees, and den trees will be retained	UPPCO's proposal to allow removal of vegetation to install electrical lines and placement of walking paths is in conflict with the intent of this plan. Protection of terrestrial resources should be maintained and Article 407 should not be eliminated

Table 2. AuTrain License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
		<p>The majority of the shoreline is in a natural state and all lands are open for public use. As a result, the lands are managed to provide both recreation and protection of the natural beauty of the area</p> <p>Annual shoreline erosion monitoring</p>	<p>Use of the Buffer Zone for hunting would be essentially eliminated in areas adjacent to private lots, since Michigan Law prohibits discharging a firearm for hunting within 450 feet of an occupied residence.</p> <p>UPPCO proposes to eliminate Article 407, thereby eliminating annual shoreline erosion monitoring. Given the potential change in surrounding land from forested to housing development, annual shoreline erosion monitoring and control is essential to protect natural resources.</p>
409	Recreation Plan	<p>Development of agreed upon recreational facilities and improvements</p> <p>Scenic views from the water are of an undeveloped shoreline. Views from the public recreation facilities are scenic, unobstructed, and aesthetically pleasing</p>	<p>UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Form 80 recreational use and further determination of environmental impacts associated with increased non-project use of project lands.</p> <p>Non-project use of project land will result in development of the shoreline and decreased scenic and aesthetic value.</p>
New	Water Quality Monitoring Plan	Water quality monitoring is not required under the existing license based, in part, on the minimal potential for development	A water quality monitoring plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of the project lands and water
New	Loon Protection and Enhancement Plan	Loon protection is not required under the existing license	We recommend that the license be amended to include a Loon Protection and Enhancement Plan. As recommended in E/PRO's Environmental Assessment, observations and studies of common loons at AuTrain Impoundment should continue. The continued studies will allow for protection of preferred habitat, identification of any limiting factors, and form the basis for recommending any enhancement measures necessary to insure future nesting success

Table 3. Boney License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
403	Water Quality Monitoring Plan	Monitor DO downstream of the dam on an annual basis	An amendment to the plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of the project lands and water.
409	Noxious Plant Monitoring Plan	Monitor and control for Eurasian watermilfoil and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies.
410	Threatened and Endangered Species Plan	<p>Minimize or restrict access through areas where special concern resources occur</p> <p>To protect bald eagles, the buffer zone is designated as a no harvest zone. Human activity is restricted within the buffer zone during the bald eagle nesting period and winter months.</p> <p>Minimize disturbance by human activity to protect raptor and waterfowl nesting success and feeding.</p> <p>No trees shall be removed from the buffer zone without prior consultation with the resource agencies. Trees should only be removed if required for disease control or public safety.</p> <p>Protection of the shoreline from excessive development</p>	<p>Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species.</p> <p>Any cutting of vegetation within the buffer zone will conflict with this objective.</p> <p>Previous studies have found that eagles nesting in the vicinity of this project are sensitive to human activity. Non-project use of project land will result in negative impacts to bald eagle habitat and nesting success.</p> <p>Non-project use of project land will result in increased human use and less protection for raptor and waterfowl nesting and feeding.</p> <p>Any cutting of trees within the buffer zone will conflict with this objective; therefore, tree removal is not approved by the resource agencies.</p> <p>Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species.</p>
412	Recreation Plan	<p>Development of agreed upon recreational facilities and improvements</p> <p>Project lands are to be managed to provide both recreation and protection of natural resources</p>	<p>UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Form 80 recreational use and further determination of environmental impacts associated with increased non-project use of project lands.</p> <p>The proposed recreational enhancements would degrade from the natural beauty of the project and are inconsistent with the approved plan.</p>

Table 3. Boney License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
413	Land Use Management Plan	<p>Protect the natural and scenic character of the project shoreline by limiting development and minimizing the views to timber harvest areas</p> <p>Protect sensitive wildlife habitat and species</p> <p>"No-harvest" policy for timber within the buffer zone. Individual trees that pose a safety hazard, interfere with project operations, or detract from the aesthetic qualities of the site may be removed in consultation with the resource agencies</p> <p>To limit development within the buffer zone, no facility development will be permitted in this area</p> <p>No additional or extensive disturbance shall occur within the buffer zone</p> <p>Improve bird and waterfowl nesting opportunities through installation and maintenance of nesting structures</p>	<p>The proposed non-project uses would degrade from the natural beauty of the project and are inconsistent with the approved plan.</p> <p>Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species and their habitat.</p> <p>UPPCO proposes to exclude Boney Falls impoundment from the Land Use Management Plan. We do not concur with the exclusion of Boney Falls impoundment from the Escanaba Project Land Use Management Plan for several reasons. There is no need for UPPCO's to amend this license article to prohibit timber harvesting practices, since harvesting within the buffer is already explicit prohibited.</p> <p>Certain non-project uses of project lands (e.g., docks) are considered facility development and inconsistent with the approved plan.</p> <p>Non-project use of project land will result in increased disturbance of the buffer zone.</p> <p>Existing nesting structures may be compromised by proposed non-project uses of project land.</p>
416	Wildlife Management Plan	<p>Minimize or restrict access through areas where special concern resources occur</p> <p>Minimize disturbance by human activity within the Boney Falls and Dam No. 3 area to protect raptor and waterfowl nesting success and feeding</p> <p>Protection of wetlands from human development</p>	<p>Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species.</p> <p>Non-project use of project land will result in increased human use and less protection for raptor and waterfowl nesting and feeding</p> <p>Not all environmentally sensitive areas, including wetlands, are protected by the proposed shoreline classification.</p>

Table 3. Boney License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
		No trees shall be removed from the buffer zone without prior consultation with the resource agencies. Trees should only be removed if required for disease control or public safety.	Any cutting of trees within the buffer zone will conflict with this objective; therefore, tree removal is not approved by the resource agencies.



Table 4. Cataract License Articles, Management plan objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
404	Water Quality Monitoring Plan	Monitor DO and temperature every 5 years for the duration of the license	An amendment to the plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of the project lands and water.
408	Noxious Plant Control Plan	Monitor and control for Eurasian watermilfoil and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies.
410	Wildlife Management Plan	<p>Protection of environmentally sensitive areas by 1) forest habitat management and development, 2) waterfowl management, and 3) endangered or sensitive species management</p> <p>Protect sensitive species and habitat</p> <p>Maintain the forest with a diversity of vegetation types and age classes and protect cavity nesting and super canopy trees</p> <p>Manage the buffer zone for old growth and natural plant succession</p> <p>Improve beaver and waterfowl nesting opportunities through installation and maintenance of nesting structures</p>	<p>Not all environmentally sensitive areas, including wetlands and high value forest types, are protected by the proposed shoreline classification</p> <p>Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species.</p> <p>Any cutting of vegetation within the buffer zone will conflict with this objective.</p> <p>Non-project use of project land will conflict with the intention of this plan</p> <p>Existing nesting structures may be expropriated by proposed non-project uses of project land</p>
411	Land Management Plan	<p>Intent of plan is to establish policies for existing and future management of the shoreline buffer and project lands</p> <p>Project lands will be managed for old growth and natural plan succession, with any management with the buffer zone proceeding only if approved by the natural resource agencies</p>	<p>Because surrounding land use is expected to change from forested to residential, the plan does not take into account new threats to terrestrial resources and is no longer valid.</p> <p>Non-project use of project land will result in negative impacts to the buffer zone and are not approved by the resource agencies.</p>

Table 4. Cataract License Articles, Management plan objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
		<p>Fruit and mast bearing trees and shrubs will be retained for the enhancement of wildlife; lowland stands of conifers for winter cover of white-tailed deer will be maintained; and hollow, wolf trees, and den trees will be retained</p> <p>The majority of the shoreline is in a natural state and all lands are open for public use. As a result, the lands are managed to provide both recreation and protection of the natural beauty of the area</p>	<p>UPPCO's proposal to allow removal of vegetation to install electrical lines and placement of walking paths is in conflict with the intent of this plan. Protection of terrestrial resources should be maintained.</p> <p>Use of the Buffer Zone for hunting would be essentially eliminated in areas adjacent to private lots, since Michigan Law prohibits discharging a firearm for hunting within 450 feet of an occupied residence.</p>
413	Recreation Plan	<p>Development of agreed upon recreational facilities and improvements</p> <p>Project lands are to be managed to provide both recreation and protection of the natural beauty of the area</p>	<p>UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Form 80 recreational use and further determination of environmental impacts associated with increased non-project use of project lands.</p> <p>The proposed recreational enhancements would degrade from the natural beauty of the project and are inconsistent with the approved plan.</p>

Table 5. Bond Falls License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
409	Water Quality Monitoring Plan	Monitor DO and temperature for initial 3-year period, subsequent monitoring as needed based upon results for first 3 years	An amendment to the plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of project lands and water
411	Nuisance Plant Control Plan	Monitor and control for Eurasian watermilfoil and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies.
413	Buffer Zone Plan	<p>Prohibit removal of vegetation in the Buffer Zone, to allow old growth forest to continue to develop</p> <p>Protection of wetlands from human development</p> <p>Plan complements other license plans such as Wildlife Plan and T/E Species Plan, by providing for increased protection and enhancement of wildlife habitat along the project shoreline</p> <p>Plan allows walk-in public access to the Buffer Zone for activities such as sightseeing, hiking, hunting, and fishing</p>	<p>Shoreline Buffer Zone is fragmented by numerous developed areas which may threaten the integrity of the old growth forest in this area. Proposed cutting of vegetation and trenching within the Buffer Zone for pathways and public trails would conflict with this objective.</p> <p>Not all environmentally sensitive areas, including wetlands, are protected by the proposed shoreline classification.</p> <p>New proposed recreational enhancements, general use/formal recreation areas, and pathway access areas may conflict with this intention by encouraging human use of shoreline areas that could result in disturbance to sensitive wildlife species.</p> <p>As proposed, the SMP would eliminate most general walk-in access to project lands, unless such access was via a designated pathway</p>

**Table 5. Bond Falls License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP**

License Article	Plan	Objectives	Conflict
414	Wildlife and Land Management Plan	<p>Protect Common Loons and their habitat. Designate islands open/closed to camping, so that some islands can be protected as loon nesting habitat. Place loon nest platforms at Bond Falls (2) and Victoria (1).</p> <p>Install osprey nest platforms at Bond Falls and Victoria. Manage osprey habitat consistent with USFS osprey management guidelines.</p> <p>Plan complements other license plans such as Buffer Zone Plan and T/E Species Plan, by providing for increased protection and enhancement of wildlife habitat along the project shoreline</p>	<p>Some areas of high quality loon habitat are not adequately protected (e.g., near Access/Pathway areas and cluster docks). East-side campground loop is proposed for peninsula identified by E/PRO as suitable loon nesting habitat. Areas identified for placement of loon nest platforms are not adequately protected from human disturbance. Large increase in watercraft on the flowages may adversely affect loons; no analysis done to determine effects. Increased human use of shoreline at Access/Pathway areas, new recreation areas, and trails may result in disturbance to nesting loons. As recommended in E/PRO's Environmental Assessment, observations and studies of common loons at Bond Falls Impoundment should continue. The continued studies will allow for protection of preferred habitat, identification of any limiting factors, and form the basis for recommending any enhancement measures necessary to insure future nesting success.</p> <p>No protection zones identified for area where osprey nest platform is to be located</p> <p>New proposed recreational enhancements, general use/formal recreation areas, and pathway access areas may conflict with this intention by encouraging human use of shoreline areas that could result in disturbance to sensitive wildlife species.</p>
415	Threatened and Endangered Species Plan	<p>Protect Threatened and Endangered Species from activities on project lands and waters</p> <p>Establish Bald Eagle management areas which include protection of nesting, roosting, and feeding areas</p>	<p>Several proposed non-project uses of project land, including construction of new recreation areas, pathways, docks, trails may conflict with this objective</p> <p>Not all existing and potential nesting, roosting, and feeding areas are included within Conservation Areas. The Conservation Area is fragmented by numerous areas of heavier human use (access pathways, general recreation areas) that may adversely affect eagles.</p>

Table 5. Bond Falls License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
		<p>Manage Shoreline Buffer Zone as old growth forest, to enhance eagle habitat</p> <p>Close temporary roads that access project lands to prevent human disturbance of eagles, ospreys, gray wolf.</p> <p>Manage road densities so that vehicular access is minimized</p> <p>Do not construct buildings along the shoreline near eagle feeding areas</p> <p>Designate and relocate camping areas on Bond Falls and Victoria Reservoirs to concentrate human activity and minimize human disturbance of T/E species</p>	<p>Shoreline Buffer Zone is fragmented by numerous developed areas which may threaten the integrity of the old growth forest in this area. Proposed cutting of vegetation and trenching within the Buffer Zone for pathways and public trails would conflict with this intention.</p> <p>Non-project uses of project land appears to conflict with this intention. See statement on p. 7-3 of the SMP indicating that existing roads within the project boundary will be left open and maintained to County specifications.</p> <p>Facilities planned for "recreational enhancements" may conflict with this intention</p> <p>Although the SMP does consolidate camping areas as required, new proposed recreational enhancements, general use/formal recreation areas, and pathway access areas may conflict with this intention by encouraging human use of shoreline areas and result in disturbance to eagles and other T/E species</p>
416	Recreation Plan	<p>Consolidate campgrounds and other concentrated recreational activity to two main campground areas (east side and west side), so that most of the project shoreline can be retained as wildlife habitat for eagles, loons, ospreys, and so that old growth forest would be allowed to develop naturally</p> <p>Continue to allow walk-in access to the Shoreline Buffer Zone for sightseeing, fishing, hunting, hiking</p> <p>Install gates on existing roads to dispersed campsites to reduce human disturbance to wildlife</p>	<p>Numerous new proposed recreation enhancements, pedestrian paths, trails, and docks along the shoreline would conflict with a major objective of this plan, which is to consolidate recreational use into two main campground areas and thus retain most of the shoreline as wildlife habitat for species that cannot tolerate high levels of human activity (eagles, ospreys, loons). Adverse impacts to old growth forest may also result</p> <p>SMP would eliminate most general walk-in access to project lands, unless such access was via a designated pathway. Use of the Buffer Zone for hunting would be essentially eliminated in areas adjacent to private lots, since Michigan Law prohibits discharging a firearm for hunting within 450 feet of an occupied residence</p> <p>UPPCO's proposal appears to conflict with this intention. See statement on p. 7-3 of the SMP indicating that existing roads within the project boundary will be left open, and maintained to County specifications.</p>

Table 5. Bond Falls License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan	Objectives	Conflict
		Specifies number and type of recreational facilities to be constructed or upgraded	UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Form 80 recreational use and further determination of environmental impacts associated with increased non-project use of project lands.

<b>License Article</b>	<b>Plan</b>	<b>Objectives</b>	<b>Conflict</b>
410	Water Quality	Monitor DO and Temp at locations and frequency specified in the Plan	An amendment to the plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of project lands and water.
412	Noxious Plants Monitoring Plan	Monitor and control for Eurasian watermilfoil and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies
414	Bald Eagle Management Plan	<p>Designate bald eagle management areas using criteria identified in the Plan and protect these areas from habitat alteration and human disturbance</p> <p>Identify "critical eagle roosts" within project boundary and protect these areas from human disturbance</p> <p>Retain coniferous trees and/or shrubs as screening for eagle forage areas to buffer eagles from potentially disturbing human activity</p>	<p>SMP appears to locate some Access/Pathway areas, trails, docks and other developments within eagle management areas. Roads accessing eagle management areas are to be closed, per direction in the Plan, but this is not addressed in the SMP. Proposed removal of flooded stumps and snags may negatively impact fish habitat and fish populations, which are important as forage for bald eagles.</p> <p>Some "bald eagle perch trees" are identified by E/PRO, but critical eagle roosts are not identified in the SMP. These areas should be identified to avoid locating human use areas, pathways, docks, etc. in areas intended for protection of critical eagle roosts.</p> <p>Removal of vegetation for enhanced view areas, pathways, and other purposes on project lands may conflict with this intention</p>
414	Comprehensive Wildlife, Land Use, and Recreation Management Plan	<p>Close unnecessary roads accessing project lands to protect gray wolf habitat</p> <p>Place two osprey nest platforms, and protect nesting ospreys from human disturbance</p>	<p>No discussion of gray wolf habitat within the SMP, including management of roads accessing project lands.</p> <p>UPPCO did not discuss the location of these two osprey platforms or how they will be protected from human disturbance.</p>

**Table 6. Prickett License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP**

License Article	Plan	Objectives	Conflict
		No timber harvest activities, including single tree selection, are to occur within the shoreline buffer. According to the plan, by not allowing cutting, these lands would remain in their present condition and any old growth trees on these lands would continue to benefit the species that are dependent upon old growth areas.	UPPCO proposes to remove vegetation to create "enhanced view areas" within the Shoreline Buffer Zone. Removal of vegetation for paths, trails, and other purposes is inconsistent with the intent of Article 414.
		Maintain the forest with the diversity of vegetation types and age classes, including maintenance of den/cavity trees and shade intolerant forest habitat for grouse and deer	Any cutting of vegetation within the buffer zone will conflict with this objective.
		Protection of wood turtles and their habitat through educational signage	Areas of confirmed wood turtle nesting are included in both General Use and Access Pathway areas.
		Improve bird and waterfowl nesting opportunities through installation and maintenance of nesting structures	Existing nesting structures may be compromised by proposed non-project uses of project land.
		Protection of areas with unique aesthetic qualities	The highest scoring aesthetic subunits are not fully included in the Conservation Area
		Recreation Plan calls for the construction, operation, and maintenance of specific recreational facilities	UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Form 80 recreational use and further determination of environmental impacts associated with increased non-project use of project lands.
		Recreation Plan requires that recreation facilities be compatible with the natural and scenic character of the surrounding area	UPPCO proposes installation of docks, new pathway areas, enhanced view areas, and Access/Pathway areas without any discussion or analysis of the effect of these structures and facilities on the natural and scenic character of the area.



Upper Peninsula Power Company - Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 80*

21 May 2007

**PUBLIC COMMENTS FROM KAY L. HOFF**

**ORIGINAL**

I will not bother you with all the eloquent reasons you have already received from many, many of us who believe the development plans are in clear violation of the permits:

**Please NO DOCKS on any of the projects:**

- P - # 1864 Bond and Victoria Falls
- P - #2402 Prickett
- P - #10856 Au Train
- P - #10854 Cataract
- P - #2506 Boney Falls

FILED  
OFFICE OF THE  
SECRETARY  
2007 MAY 21 P 2:59  
FEDERAL ENERGY  
REGULATORY COMMISSION

Kay L. Hoff  
1593 McKinney Lane  
Minocqua WI 54548

715-588-1409

*Kay L Hoff*

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 81*

**21 May 2007**

**PUBLIC COMMENTS FROM DOUGLAS R. CORNETT**

**Wolfe, Janet**

---

**From:** Doug Cornell [doug@northwoodswild.org]  
**Sent:** Monday, May 21, 2007 3:48 PM  
**To:** Wolfe, Janet  
**Subject:** Environmental Assessment Comments - RETURN RECEIPT REQUESTED

May 21, 2007

Dear Ms. Wolfe,

I am writing to comment on the Environmental Assessments for the AuTrain, Bond Falls, Boney, Cataract, Prickett, and Victoria Reservoirs.

The environmental assessments conducted by E-PRO, the firm hired by UPPCO/WPS, are inadequate. These assessments did not address the impact development would have on project lands, including wildlife species and water quality. Certainly the development will significantly alter the environment of the flowages in their present state. As an alternate member of the Eastern Focus Group, I was dismayed that UPPCO's representatives consistently evaded questions on water quality and the increased impacts that motorized use will have on these flowages. In fact, UPPCO representatives arrogantly answered that development of "non-project" lands was not UPPCO's concern, and that State and local regulations would take care of impacts from the development and that "UPPCO will sell all non-project land."

Development of "non-project" lands will certainly impact water quality of "project" lands and water. Individual septic systems, groundwater removal from individual wells, runoff from new roads and driveways, runoff from lawns using fertilizers and pesticides, and motor boats spewing oil, gasoline and exhaust directly into reservoir waters, is not addressed anywhere in the Assessments. The cumulative impacts of all the elevated use of "non-project" and "project" lands should be addressed in the EA's.

UPPCO never expressed any intention of selling or developing the lands during the time the last Environmental Impact Study was conducted and license renewal granted. So, the impact on project lands was never considered. The Federal Energy Regulatory Commission should order a new Environmental Impact Study to assess the full impact to the project lands by proposed development of "non-project" lands.

Naterra Land has not revealed development plans for any of the flowages. There must be full disclosure of their plans before the impacts can be fully assessed and any conveyances approved.

UPPCO led people to believe the consolidation of campgrounds at Bond Flowage was for environmental reasons, while in reality an extensive land sale to a major developer was being planned. The decision to consolidate campgrounds was made without public input.

Elimination of dispersed campsites and campground redesign should be re-evaluated as part of the Shoreline Management Plan process.

5/21/2007

I am opposed to any private lighted individual and cluster docks or viewing corridors at any of the flowages. None of these activities is consistent with the current license.

A cost of service study should be conducted for each of the developments. The public needs to see both benefits and costs to the taxpayers because the pristine character of these flowages will be lost forever.

Thank you for considering these comments.

Sincerely,

Douglas R. Cornett

P.O. Box 122

Marquette, MI 49855

No virus found in this outgoing message

Checked by AVG Free Edition.

Version: 7.5.467 / Virus Database: 269.7.6\*14 - Release Date: 5/21/2007 2:01 PM

5/21/2007

Upper Peninsula Power Company - Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 82*

21 May 2007

PUBLIC COMMENTS FROM STEVE GARSKE

**Wolfe, Janet**

---

**From:** Steve and Nancy [asimina@ecoisp.com]  
**Sent:** Monday, May 21, 2007 7:14 PM  
**To:** Wolfe, Janet  
**Cc:** asimina@ecoisp.com  
**Subject:** Public comment on UPPCO Shoreline Management Plans (Michigan)

May 21, 2007

Janet Wolfe  
Communications Manager  
UPPCO  
PO Box 130  
Houghton, MI 49931-0130  
jwolfe@uppcoco.com

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE.  
Washington, DC 20426  
(Comments sent via USPS)

Re: UPPCO Shoreline Management Plans for FERC Projects P-1964 (Bond and Victoria), P-2402 (Prickett), P-10856 (Au Train), P-10854 (Cataract), and P-2506 (Roney Falls)

Janet Wolfe:

I am writing to comment on the Draft Shoreline Management Plans (DSMPs) compiled by Upper Peninsula Power Company (UPPCO) and its holding company, WPS Resources. Because the DSMPs for these projects are so similar to each other (much of the text of the 5 DSMPs is identical except for place names, etc.) my comments apply to all 5 unless otherwise noted.

### PART 3. REGIONAL DEMOGRAPHICS

First I wish to point out that when it comes to the environmental impacts being considered in the DSMPs, UPPCO takes the attitude that it has the legal right to sell nonproject lands for massive residential development and will do so, and that its only responsibility is to manage its project lands and hydroelectric projects in a way that minimizes the impact of this development. But the tone of Part 3 of each DSMP is quite different. There they list all manner of demographic statistics for each respective county, in an attempt to imply (without hard evidence) that developments proposed for nonproject lands will greatly benefit these counties and local residents. The language may be subtle but the implication is clear. As with their press releases and public statements, UPPCO seems to hold the view that the impacts of the sale and development of its nonproject lands on environmental and recreational resources should not be considered when evaluating these DSMP, while the economic (but not necessarily quality-of-life) impact of these sales and drastic changes in land use should be. UPPCO cannot have it both ways.

The Regional Demographic section for each DSMP points out that the lands surrounding these flowages are considerably more rural and "tend to have lower measures of economic well-being (for example, income and home value)" than the average for Michigan. At the same time a footnote at the bottom of the first page of Part 3 of each DSMP states that all these areas are socioeconomically similar to surrounding communities and the UP as a whole. UPPCO is therefore in essence comparing the economic status of each impacted community to that of Michigan's Lower Peninsula, even though the LP has a much different history and economic structure. The DSMPs then state (again, without evidence) that the proposed developments will increase income, land values, the tax base, and at least by implication, the "quality of life" of current residents. But despite these claims, NO COST-BENEFIT STUDY HAS EVER BEEN CONDUCTED FOR ANY OF THESE PROPOSED DEVELOPMENTS. Indeed

It is my understanding that UPPCO, Naterra Land Corp., and/or a handful of individuals on a township board have actively opposed requests from citizens to do such studies. Obviously if property values go up, property tax revenues will also go up, but resident's property taxes will go up as well. With more full- and part-time residents, more services such as road maintenance, police and fire protection, social services, etc. will be needed, and the cost to local governments for these services will also rise, eating up some or all of these additional tax revenues. The cost of living will increase. The public needs to be informed of these costs as well as the purported benefits of these proposed developments in order to make the best decisions for their communities. Because if Naterra's development plans go through, the pristine nature of these flowages will be lost forever.

Certain regional economic interests, including the Western Upper Peninsula Planning and Development Regional Commission and the Ontonagon Conservation District, have submitted comments to FERC (posted on the FERC website) in favor of these developments, stating that UPPCO has solicited comment from local citizens, hunting and fishing interests, environmentalists, local governments, and representatives of state and federal land management agencies. What they don't mention is that, except for a few narrow groups within certain local governments, all of these groups are overwhelmingly OPPOSED to these proposed developments. This has been evident at all three UPPCO "public meetings" I have attended, as well as from the majority of letters-to-the-editor in local newspapers, and in conversations with others around the western UP. And it is also demonstrated by a fall 2006 survey sent to all Haight Township residents (posted on the FERC website at <http://elibrary.ferc.gov/idmsw/content/opennat.asp?fileID=11165071>) where 66% of respondents were against any development and 74% were against docks on Bond Falls Flowage!

Finally, the demographics sections of all 5 DSMPs assume that residents measure "well-being" and "quality of life" simply by the monetary value of their homes and bank accounts. They clearly imply that the rural nature of these areas is a negative, something I and I'm sure many other area residents would strongly disagree with. The DSMPs assert that because the local residents have a lower average income (along with a lower cost of living, but of course that's not mentioned) as compared to Lower Peninsula residents, the quality of life here is therefore low and that UPPCO's and Naterra's development plans are needed to "fix" this "inadequacy". This arrogant attitude has been obvious throughout UPPCO's and Naterra's push for development around these flowages.

#### PART 6. ENVIRONMENTAL, RECREATIONAL, CULTURAL AND AESTHETIC RESOURCES

Given the massive development being planned by Naterra on nonproject lands, it seems clear that the following articles (and probably others as well) require amendment:

Article 409. Water Quality Monitoring Plan (Bond/Victoria DSMP):

This article states that water temperature and dissolved oxygen be monitored through 2007. Then UPPCO must consult with the BFIT and MDSO on whether further monitoring is needed.

UPPCO claims that this Article does not require amendment. But ringing nonproject lands around this flowage with roads, houses and accompanying lawns and septic tanks (in a rare detail on flowage development plans from Naterra, 424 houses have been proposed) will undoubtedly result in a significant lowering of water quality. If the proposed developments are implemented, Article 409 MUST be amended to include monitoring of additional relevant water quality parameters such as turbidity, total dissolved solids and fecal coliform bacterial counts. Otherwise this environmental issue could turn into a human health issue as well.

Article 412. Noxious Plant Monitoring Plan:

Part 1 of each DSMP states that a goal is to "Avoid the introduction and/or the spread of nuisance/invasive species". The signs and educational materials and activities that UPPCO proposed to use may help slow the influx of invasive species. But with massive development and the influx of people, vehicles, boats, etc., from areas where many of these species are already rampant, numerous non-native, invasive plants and animals ranging from aquatic and terrestrial pests to plant diseases and earthworms are sure to be introduced in spite of these efforts. (No terrestrial earthworms are native to the northwoods, and all the earthworms here today are introduced from Europe. These introduced earthworms have severe detrimental impacts on northern hardwood forests, because they consume the litter layer on which many forest plants and ground-living animals depend.) Invasive plants that should be monitored and controlled include curly-leaf pondweed (*Potamogeton crispus*), Eurasian



bush honeysuckles (*Lonicera tatarica*, *L. morrowii*, and *L. x bella*), and common and glossy buckthorn (*Rhamnus cathartica* and *R. frangula*). Glossy buckthorn is already rampant around Victoria flowage and on surrounding Ottawa National Forest lands, where the ONP is working to control it. Helping with these efforts at least on its own lands would show that UPPCO was really concerned about invasive species around these flowages.

One of the most serious invasives likely to be introduced sooner or later is the zebra mussel (*Dreissena polymorpha*). This Eurasian mussel disrupts aquatic food chains and is notorious for fouling water intake pipes and other underwater equipment. In Canada, Ontario Hydro has reported zebra mussel impacts of \$376,000 annually per generating station (New York Sea Grant 1994, cited in US-ACE ERDC 2007).

Zebra mussels have already spread throughout the Great Lakes, and inhabit the Mississippi River and several northern Wisconsin and UP inland lakes as well. With the expectation of greatly increased boat traffic to and from these flowages, it seems only a matter of time before this major aquatic pest is introduced to one or more of them. Once established, there is no known way of eradicating them. Presumably UPPCO would be actively working to prevent zebra mussels and other pests from gaining a foothold in these flowages, at for no other reason than to avoid potential problems with the operation of its hydroelectric facilities.

Part 1 of each DSMP states that UPPCO will do "routine inspections" to "monitor project lands and waters for introductions of terrestrial and aquatic invasive species as a result of development activities." Article 412 should be modified to address the almost certain influx of invasive species resulting from the proposed developments, and at least give a general outline of how UPPCO intends to carry out this monitoring. Invasive terrestrial plants (and certain aquatic plants, such as curly-leaf pondweed) can sometimes be eradicated from an area if infestations are caught early. Therefore comprehensive surveys for invasives should be conducted over the entirety of the project lands (and nonproject lands) at least once and preferably twice per year, to catch early-flowering species such as garlic mustard as well as plants such as the introduced buckthorns that are detectable well into the fall. If populations of invasives are found, strategies should be in place to control or eradicate them.

**Article 413. Buffer Zone Plan (Bond/Victoria DSMP):**

Here UPPCO proposes to increase the amount of project lands to be managed for old-growth by 23.4% at Bond Falls and 20.1% at Victoria Flowage. But the license agreement for this project states that "UPPCO commits to develop a buffer zone plan covering 'UPPCO-owned project lands' with a management objective to achieve old growth forest" (FERC 2003, Section 4E, page 12)! Therefore under the license agreement essentially ALL the forest around these flowages should be managed as old-growth, not just a portion of them.

**Article 414 (Bond/Victoria DSMP) Wildlife and Land Management Plan:**

UPPCO promises to classify 68.5% and 66.5% of lands at Bond Falls and Victoria, respectively, as "conservation" lands. But again, the license agreement states that the management objective for ALL the forested lands around Bond and Victoria is for management as old-growth! Furthermore, on Bond Falls in particular these so-called "conservation areas" do not consist of one or a few continuous blocks of habitat, but are instead broken into many, mostly small chunks of land scattered around the flowage. Many of these fragments are so small and isolated that they will be highly susceptible to the adverse effects of fragmentation, including colonization by invasives and disturbance from human activities, and will likely be of little conservation value.

**Article 415. Threatened and endangered species protection and enhancement plan (Bond/Victoria DSMPs, with mention of Cataract DSMPs):**

This Article must specifically be amended to include assessment and protection of habitat for two state "Threatened" and one state "Special Concern" species. The first "Threatened" species is the merlin (*Falco columbarius*). This falcon was noted by UPPCO's consultant E-PRO (E PRO Engineering and Consulting LLC, based in Maine) in their reports for Bond/Victoria and Cataract flowages (as discussed below), but not recognized as being a state-listed species (or at least E-PRO did not treat it as such in their report). The second "Threatened" species is a rare cisco, *Coregonus artedii* (also known as "lake herring"), which is found at least at Bond and Victoria Flowages, but also not considered in these reports or the DSMPs. A "Special Concern" species not mentioned in E PRO's surveys or the Bond/Victoria DSMP is a rare plant, autumnal water starwort (*Callitriche hermaphroditica*), found in at least two locations on Bond Falls Flowage. (See the discussion under Part 7 below for additional information.) Again, these rare species are

not considered in any of the relevant DSMPs, even though the license agreements require UPPCO to provide "Threatened, endangered, and sensitive species protection for all UPPCO-owned project lands" (FERC 2003, Section 4E, page 12).

Additional rare species probably inhabit these flowages and surrounding project lands as well. Comprehensive rare species surveys should be done by qualified individuals at the appropriate times of year, to insure that any additional rare and endangered species are protected in accordance with the license agreements.

Article 416, Recreation Plan (Bond/Victoria DSMP):  
UPPCO suggests a number of amendments to this article, including an amendment to Sections 2.1 and 2.2, stating, "The recreational enhancements proposed for the Bond Falls Development are consistent with the policies, shoreline classifications, and development guidelines specified in the shoreline management plan for the Bond Falls Project and the objectives of the Buffer Zone Plan and the Threatened and Endangered Species Protection and Enhancement Plan." As discussed above, the DSMP for Bond Falls is clearly NOT consistent with the shoreline classifications and development guidelines because it did not consider three rare species documented on this flowage: the merlin, the lake herring and the autumnal water starwort.

Additionally, part (b) of this article clearly states that the licenses may only grant permission for "NON-COMMERCIAL piers, landings, boat docks, or similar structures" (capitalization added) without FERC approval. Thus the marina/cluster docks for boat rental proposed for Bond at the Barclay boat landing, and at Victoria near the dam appear to be prohibited without FERC approval, and would presumably require an amendment to this article to construct them.

Article 419, Historic Resources Management Plan (Bond/Victoria DSMP):  
UPPCO claims that implementing the DSMP will have no effect on historic sites around the flowage. But with the attempted (and I believe license-violating) changes to the management of the project lands proposed in this DSMP, including moving campsites, replacing "old-growth" with developed "recreation areas", etc. revision of this article would seem to be in order.

#### PART 7. SHORELINE MANAGEMENT PLAN CLASSIFICATIONS AND GUIDELINES

Part 7 of each DSMPs once again asserts that UPPCO and E-PRO have conducted adequate environmental assessments of Bond, Victoria, and the other flowages. THIS IS FALSE. As pointed out in previous comments to FERC, the brief E-PRO surveys conducted in 2006 resulted in cookie-cutter "draft reports" which were very superficial and so much alike that even the names of the flowages were occasionally wrong.

In my 2006 comments to FERC I outlined why the E-PRO draft reports were grossly inadequate. Except for bald eagles and loons, the consultants seemed unsure of what they were looking for. Included in their bird sightings were reports of merlins (*Falco columbarius*) at Bond Falls, Victoria, and Cataract Flowages. At Victoria and Cataract Flowages, the E-PRO reports even mention seeing merlins acting aggressively, indicating likely nesting nearby. These consultants either didn't realize that the merlin was listed as "Threatened" by the State of Michigan, or if they did (as UPPCO claims on page 18 of Attachment 71 of the DSMP, in response to my August 2006 comments to FERC, included in attachment 47) they inexplicably didn't mention that this bird was state-"listed" or treat it as such in their report. Aquatic plant "surveys" simply listed several genera common in lakes throughout the eastern US, e.g. *Potamogeton* spp., *Najas* spp., *Myriophyllum* spp., etc., and apparently made no attempt to identify these plants to species, or to figure out if the plants they saw might be rare. Emergent and shoreline plants were not surveyed, nor was there any attempt to assess how migratory birds might use these flowages.

In September 2006 I visited Bond Falls Flowage (for a canoe trip with others). There I came upon two populations of a rare aquatic plant the consultants had never mentioned: *Callitriche hermaphroditica* (autumnal water starwort). This plant is listed as "Special Concern" in Michigan. It was locally common in shallow water near Little Falls on the south side of the flowage, and at the mouth of Dead Creek on the west side of the flowage. (I collected several specimens and sent them to the University of Michigan Herbarium in Ann Arbor, where the plant's identity was verified by the curator, Dr. A. A. Reznicek. I also submitted a rare plant reporting form to the Michigan Natural Features Inventory in Lansing.) At both locations the populations were large and obvious enough that even if the

consultants were only able to identify common genera of aquatics, they should have seen this plant, recognized that it was unusual, and used one of several widely available plant taxonomy works relevant to the region to figure out what it was.

Another rare species inhabiting Bond Falls flowage has been completely omitted from the DSMP for this flowage - a cisco, *Coregonus artedii* (also known as "lake herring"). In Table D-1 of Appendix D of the 2001 Draft Environmental Impact Statement for relicensing (FERC 2001), this fish is listed as inhabiting Bond Falls Flowage and two of three other large water bodies (Gogebic and Cisco Chain of Lakes) included in the Bond Falls project. The lake herring is listed as "Threatened" in Michigan (MNFI 1999). Yet its presence is not mentioned anywhere in the DSMP or E-PRO's reports, so the potential impact of the DSMP on this state-listed species isn't considered.

The Bond Falls Flowage map classifies both the areas with autumnal water starwort as "General Use / Formal Recreation Areas" where "recreational enhancements" would occur (Section 7-3). While these water starwort populations can presumably handle occasional foot or canoe traffic (and are mostly in too shallow of water to be significantly affected by motorboat traffic), they are likely to be significantly impacted by the "proposed recreational enhancements" planned for these areas. UPPCO's claim that these areas were "carefully planned based upon data collected as part of the 2006 environmental studies" is further evidence of the gross inadequacy of these studies.

According to the license agreement for Bond Falls Project (FERC 2003), UPPCO commits to a "land management plan that includes timber management, revegetation measures, and threatened, endangered, and sensitive species protection for all UPPCO-owned project lands." (Section 4E, page 12). I would assume that Special Concern species such as autumnal water starwort would fall under the term "sensitive species" used in the DSMP, and that the lake herring and the merlin (both protected under Michigan law) definitely would. Yet despite published reports of the presence of these latter two species by FERC and UPPCO's own consultants, respectively, no meaningful surveys have been conducted for them, and no consideration of them (let alone provisions for their protection) exists in the DSMPs for Bond Falls or (for the merlin) Cataract Flowages. What other rare, threatened, and endangered species inhabit these flowages and surrounding project lands? Nobody knows, because despite the 2006 E-PRO surveys, **NO COMPREHENSIVE ASSESSMENT OF RARE PLANTS AND ANIMALS HAS BEEN DONE** on or around these flowages.

The DSMP goes on to state how the various layers of "data" were overlaid on aerial photographs, and how the resulting maps "served as the primary aid in the classifying Shoreline Management Plan areas" (sic). But because much of the biological "data" collected by UPPCO and E-PRO is haphazard, incomplete, irrelevant, and/or superficial, any maps that rely on this "data" are presumably superficial and unreliable as well.

## PART 9. ENVIRONMENTAL IMPACTS

The Bond Falls DSMP contradicts the "Draft Environmental Impact Statement" (FERC 2001) as to how much wetland exists around this flowage. On page 54, FERC (2001) states that "Although wetlands around Bond Falls Reservoir are limited because of the seasonal drawdown, a narrow band of willows is present around the perimeter of the impoundment." In trying to justify siting some docks over shrub wetlands, the DSMP (page 9-3) states, "These wetlands exist throughout the majority of the Bond Falls impoundment and the wetland type is very common along the majority of the shoreline. Because this habitat type is very common at Bond Falls, and is only available to species such as fish.....the extent of impacts associated with seasonal dock placement in these areas is expected to be minimal." The curious "only available to fish" comment aside, is Bond Falls Flowage surrounded by a narrow band of willows, as stated in FERC (2001), or by extensive shrub wetlands as stated in the draft DSMP for this flowage?

Page 9-1 of the Bond/Victoria DSMP states, "Moderate long-term impacts to water quality through the introduction of additional nutrient supplies in the form of uncombusted fuel could potentially result from the operation and maintenance of additional boats associated with the proposed docks." Since when has uncombusted fuel been considered a nutrient? Also, the potential impact of uncombusted fuel is omitted from the DSMPs for the other flowages, even though new docks are proposed for all of them.

## CONCLUSION

Article 422, Section (a) of the license for the Bond Falls Project (FERC 2003) and similar license articles for the other projects (see Part 4 of the corresponding SMPs) state that the "licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project." (page 61). And Section (f) of each license states that "... lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values."

The DSMPs for these projects would allow large private lighted docks (proposed for all the flowages), viewing corridors (Prickett, Cataract, Boney Falls and AuTrain) woody debris clearing from the flowage (Prickett), "Formal Recreation Areas" that slice up forest originally designated to be managed as old-growth (Bond/Victoria), and other alterations that do not fulfill the purposes stated for the flowages and adjacent project lands in the license agreements for these projects, including environmental and rare species protection, shoreline aesthetic values, and unfettered access for all of the public. And because UPPCO's management plans have changed so drastically from a few years ago, when they stated that they anticipated no significant development around these flowages, new Environmental Impact Statements should be completed for all of these flowages to ascertain the full impact of UPPCO's plans. This is necessary for many reasons, including to assess impacts to state-listed species, which UPPCO has undeniably so far ignored in its DSMPs and environmental "studies" for at least three of the flowages. Furthermore, Materra Land Corp. has still not released specific plans for development around any of these flowages, making it impossible to fully judge what the true impacts of these developments might be, let alone whether these DSMPs will be adequate to handle the anticipated impacts.

For the above reasons, I am strongly OPPOSED to these DSMPs being implemented in their present form. I ask that UPPCO update and revise these DSMPs after completing new Environmental Impact Statements for these flowages, so that the resulting SMPs are based on complete, accurate, and up-to-date information, and adequately address the concerns discussed above.

Thank you for this opportunity to comment.

Steve Garska  
PO Box 4  
Marenisco, MI  
49947-0004

#### REFERENCES CITED:

[E-PRO] E-PRO Engineering & Environmental Consulting, LLC. July 2006. Assessment of the recreation, wildlife, loon, and aesthetic resources of the Bond Falls Impoundment, Ontonagon County, Michigan. E-PRO Engineering & Environmental Consulting, LLC, Augusta, Maine, with assistance from H. Dominic Consulting, Readfield, ME.

[E-PRO] E-PRO Engineering & Environmental Consulting, LLC. July 2006. Assessment of the recreation, wildlife, loon, and aesthetic resources of the Prickett Impoundment, Houghton County, Michigan. E-PRO Engineering & Environmental Consulting, LLC, Augusta, Maine, with assistance from H. Dominic Consulting, Readfield, ME.

[FERC] Federal Energy Regulatory Commission. December 2001. Draft environmental impact statement for hydropower licensing. Bond Falls Project. FERC Project #1864-0005. Office of Energy Projects, Division of Environmental and Engineering Review, Washington, DC 20426.

[FERC] Federal Energy Regulatory Commission. August 2003. Upper Peninsula Power Company Project No. 1864-005. Order Approving Settlement and Issuing New License (August 20, 2003). Office of Energy Projects, Division of Environmental and Engineering Review, Washington, DC 20426.

[MNPFI] Michigan Natural Features Inventory. 1999. Michigan's Special Animals.

<http://web4.msue.msu.edu/mnfi/data/specialanimals.cfm> (May 2007).

[MNFI] Michigan Natural Features Inventory. 1999. Michigan's Special Plants.  
<http://web4.msue.msu.edu/mnfi/data/specialplants.cfm> (May 2007).

New York Sea Grant. 1994. Agency Activities. Dreissenid (Zebra Mussel) Clearinghouse. 250 Hartwell Hall, SUNY College at Brockport, Brockport, NY 14420-2928), 5(3), 1-2.

[US-ACE ERDC] US Army Corps of Engineers, Environmental Research and Development Center. 2007. Zebra Mussel Information System (ZMIS). Vicksburg, Miss.  
<http://el.ercdc.usace.army.mil/zebra/zmis/zmishelp.htm> and links (May 2007).

Upper Peninsula Power Company Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 83*

23 May 2007

PUBLIC COMMENTS FROM JUNE SCHMAAL

Janet Wolfe, Communications Manager  
UPPCO  
P.O. Box 130  
Houghton, MI 49931-0130  
May 23, 2007

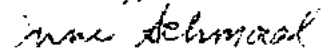
Dear Ms Wolfe,

As a long-time resident of the lake district of northern Wisconsin, I speak from experience regarding the effects on pristine shorelines of over-development by greedy or ignorant humans.

The proposed management plans for Project Lands surrounding reservoirs in the Upper Peninsula of Michigan inevitably will result in detrimental impacts on this splendid area. Surely, in 2007, there must be some environmental awareness of the inevitable damage that will occur with the introduction of docks, lights, paths, and viewing corridors and unenlightened property owners.

I urge that WPS-UPPCO honor its FERC license and protect the shoreline habitat from human intervention and all of the environmental destruction that will surely follow.

Sincerely,



June Schmaal  
1163 Hwy 47 West  
Arbor Vitae, WI 54568

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 84*  
25 May 2007

EMAIL CORRESPONDENCE FROM HENRY W. PETERS



Henry W. Peters  
(906) 932-4715

E. 5132 Wildewood Ln. Apt 102

Ironwood MI 49938  
hwpeters@provide.net

May 24, 2007

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission (FERC)  
888 First St. N.E.  
Washington D.C. 20426

ORIGINAL 2007 May 31  
MAY 31 2 18 20

Re: Shoreline Management Plans and Development Projects (SMPs), FERC Reservoir Project Numbers:  
Project No.1864 (Bond and Victoria)  
Project No. 2402 (Prickett)  
Project No.10856 (Au Train)  
Project No.10854 (Cataract)  
Project No. 2506 (Boney Falls)

Dear Secretary Bose (and Commission),

Enclosed below are my comments on the SMP regarding the land sale and projected planned development anticipated to follow in the above referenced hydropower domains. I sent these comments, in timely fashion to UPPCO (i.e., May 21, 2007, the official deadline for public comment) by email... so the form differs slightly, printed. I also corrected, for clarity of understanding, several misspellings and typos (and will therefore, resend remarks to UPPCO, noting slight changes).

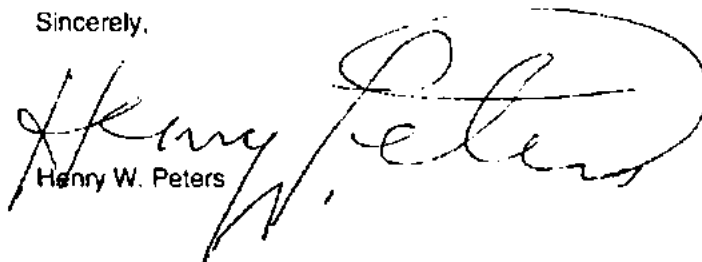
The short of it is; I find extremely disconcerting the fact that (as far as I know) UPPCO/WPS/Nantera, Inc., has largely attempted to bypass public awarenesses regarding their intentions and perhaps even worse, the legally mandated regulatory authority of FERC, especially regarding the Project lands.

Please give this appropriate attentions... Generally speaking, this may not be the richest area (economically) in the nation, it has, however, been endowed with a certain measure of abundance (diversity in nature, and profound beauty!), as well as the opportunity to recover some measure of *wealth*, lost from previous generations of human induced error (i.e., careless mining practice, over logging... some of which involved (clear) cutting up to the edge of waterways... allowing for erosion, changes in turbidity, and temperature, for some example, the Grayling' was lost this way, as they were dependant upon the cooler water temperatures for breeding, and the removal of forest cover (shade) cause over-all water temperatures to rise, etc. (see footnote below on page two).

These "resources" above mentioned (and many not) address also, a future, POTENTIAL state of the world. The wheel is still in spin... It may be that citizens currently residing in these areas, will, or will not respond appropriately to the call for responsible actions to protect the above, but the opportunity for doing so would have no moral/ethical basis, if this same opportunity were removed from the realm of the possible by means of their own governmental indifference. This is your charge. I pray you act with appropriate consideration for ALL of the inhabitants of these areas.

Thank you for your consideration to this matter.

Sincerely,

  
Henry W. Peters

Footnote:

Henry W. Peters      E. 5132 Wildewood Ln. Apt 102      Ironwood MI 49938  
(906) 932-4715      hwpeters@provide.net

<sup>1</sup> <[http://en.wikipedia.org/wiki/Grayling\\_%28species%29](http://en.wikipedia.org/wiki/Grayling_%28species%29)>

The grayling (*Thymallus thymallus*) is a species of freshwater fish in the salmon family (family Salmonidae) of order Salmoniformes. It is the type species of its genus. Native to the Palearctic ecozone, the grayling is widespread throughout northern Europe, from the United Kingdom and France to the Ural Mountains in Russia. While it was introduced to Morocco in 1948, it does not appear to have become established there.

(snip)

*The grayling prefers cold, running riverine waters, but also occurs in lakes and, exceptionally, in brackish waters around the Baltic Sea. Omnivorous, the fish feeds on vegetable matter as well as crustaceans, insects and spiders, molluscs, zooplankton, and smaller fishes, including Eurasian minnows and yellow perch. Graylings are also prey for larger fish, including the huchen (*Hucho hucho*).*

*With the Arctic grayling, *T. thymallus* is one of the economically important *Thymallus* species, being raised commercially and fished for sport.*

The grayling is a protected species listed in appendix III of the Bern Convention.

(emphasis added)

ORIGINAL

Henry W. Peters E. 5132 Wildewood Ln. Apt 102 Ironwood MI  
49938

(906) 932-4715

hwpceters@provide.net

May 21, 2007

Ms. Janet Wolfe  
Communications Manager  
UPPCO  
PO Box 130  
Houghton, MI 49931-0130  
Email: jwolfe@uppc.com

Re: Shoreline Management Plans and Development Projects (SMPs), FERC Reservoir Project Numbers:  
Project No. 1864 (Bond and Victoria)  
Project No. 2402 (Prickett)  
Project No. 10856 (Au Train)  
Project No. 10854 (Cataract)  
Project No. 2506 (Boney Falls)

Dear Ms. Wolfe, et. al.,

Basically, in regards to the above referenced UPPCO/WPS hydropower area land sale areas to Nanterra, I wish to state my firm objection.

Off the top, as a longtime area resident of this area in the upper peninsula of Michigan and now land steward of my family's properties, 160 acres approximately seven miles south of Victoria reservoir (since 1941), from the time of my birth, I have lived off and on, or near my grandparents 1928 homestead, my experience tells me that any where near the placement of the projected watercraft in these commercially designed developments as outlined in the current edition of the "Shorline Management Plan" (SMP), with accompanying docking facilities, strikes any person who has some reasonable amount of awareness, experience and sensitivity to the magnificent but yet fragile diversity of ecosystems in the considered sale areas (and for the sake of discussion here: *especially the project lands*), of which some is just now beginning to recover from well over a centuries' previous mistakes, especially in regarding this abundant diversity as an *inexhaustible* resource of forest, mineral/water or atmosphere. Unfortunately some of these areas, in close proximity, continue to take a beating... e.g., road building inappropriate logging, or other manner of oft mindless exploitation, and some areas, it is yet to be demonstrated even their potential for resilience.

If you get nothing more from this letter than this: I say, NO TO DOCKS IN THE SALE AREAS. But there is more, and I would now take this opportunity to expand a bit.

First of all, the license agreement, accomplished in 2003 between the Federal Energy Regulatory Commission (FERC) and UPPCO states (albeit in relation to the Wild and Scenic Rivers Act, which may or may not be at the moment, moot) that:

76. Section 7(a) does not bar the issuance of a license for its continued operation, as long as no new construction is proposed,<sup>54</sup> and UPPCO proposes no new construction in its re license application.  
(emphasis added)

And further it states:

Henry W. Peters      E. 5132 Wildewood Ln. Apt 102      Ironwood MI  
49938

(906) 932-4715

hwpeters@provide.net

16 U.S.C. § 808(e).

#### LICENSE TERM

108. Section 15(e) of the FPA 63 provides that any new license issued shall be for a term which the Commission determines to be in the public interest, but the term may not be less than 30 years nor more than 50 years. 109. *The Commission's general policy is to establish 30-year terms for projects that propose little or no redevelopment, new construction, new capacity, or environmental mitigative and enhancement measures; 40-year terms for projects that propose moderate redevelopment, new construction, new capacity, or mitigation and enhancement measures; and 50-year terms for projects that propose extensive redevelopment, new construction, new capacity, or enhancement.* 110. *In Section 2.5 of the Agreement, the signatories agree to a 40-year license term. In 1991, UPPCO completed reconstruction of the Victoria dam and related facilities costing approximately \$14,000,000. UPPCO also completed a \$6,000,000 replacement of the woodstave pipeline with a spiral wound steel pipeline in 2001. In light of these expenditures and the enhancement measures and operational changes proposed pursuant to the Agreement, a term of 40 years is appropriate. Accordingly, the new license for the Bond Falls Project will have a term of 40 years.*

(emphasis added)

In other words, the way I read this, the current license was granted to all areas under the condition that UPPCO did **not** project any more possible construction that would go beyond the proposed changes at Victoria dam reconstruction, so therefore, it seemed a 40 year license renewal was justified. This, among other features, is what the agreement was about.

Ok, so there were NON-project lands which are supposedly open for any business that the "owners" may choose... We might debate, in an other, more kind forum, the wisdom of this "any business" however, I wish to focus on my main concern here, the project lands and the project waterways...

- What FERC approved for the Recreational Plan does not resemble in the least the massive changes now proposed... involving construction and intrusion of docks, landings, lights, and, of course, water craft with accompanying residences and *exponential variances* through time.
- UPPCO/WPS commissioned a "drive by" biological survey... about a several day time line, *during only one season of many here which transpire*, using, for example, a helicopter to do raptor surveys...(absurd!). The "Michigan Hydro Relicensing Coalition" (MHRC) states in their August 28, 2006 letter to UPPCO that:

"We recommend that UPPCO not identify these studies as "Environmental Assessments." Environmental Assessment (EA) has a specific meaning under the National Environmental Policy Act (NEPA). These assessments do not meet the requirements of an EA as defined under NEPA. In general, an EA includes brief discussions of the following: the need for the proposal, an analysis of alternatives, environmental impacts of the alternatives, and a listing of agencies and persons consulted."

- They go on to politely suggest that you call your over view preliminary, biased view

Henry W. Peters      E. 5132 Wildewood Ln. Apt 102      Ironwood MI  
49938

(906) 932-4715

hwpeters@provide.net

assessment (of the public's willingness to digest the superficial!) as an "Environmental Baseline Assessment." I most respectfully cease my agreement with the MHRC at this point, as the study had more of an appearance of making a puppet show of the resource than any serious degree of concern for the possible correspondence to the important natural relations that show them *through time and space*.

- That said, from even a cursory glance at the comments the various commenting agencies made, both as individual organizations and as a coalition, there seemed more or less unanimous apprehension as to the sufficiency of the "E-Pro, Inc." survey.
- I would further add, besides an EA that, because of the scope and magnitude of these projects, both site specific and inclusive of the total projects areas covered in this proposed landscape modification of which a Federal Agency is the regulatory overseer (FERC), *cumulative effects* which include, by legal mandate, from the NEPA as cited below, an EA, a Biological Evaluation (BE) and also appropriate Environmental Impact Statements (EIS) need be done to maintain any credible compliance with the letter and spirit of applicable laws.

#### NEPA

#### 40 CFR PART 1500

#### Sec. 1508.7

Cumulative impact. "Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time

- Nature is, one way or another, in a dynamic condition... Where are the now, relatively every day discussed possibilities of GLOBAL CLIMATE CHANGE considerations in relation to these projects? !
- What happens, for example if, given that there is now generally admitted loss of fossil fuel ("peak oil), and the likely possible effects of this development?
- Where is the analysis of the probabilities, given you are inviting multiplying possibilities for who knows who, from who knows where regarding "*viral hemorrhagic septicemia virus*, VHSV, which causes anemia and hemorrhaging in fish," as cited in below included article, not to mention other invasive species of plant and animals (i.e., zebra muscle, etc.)?
- In this "Shoreline Management Plan" numbers of "proposed recreation enhancements are listed... very impressive... and supposedly members of the public ("local stakeholder") have, for example, asked for "fish cleaning stations." Well, I have been to most every public meeting (other than the so-called "focus groups.") and I have not once heard *any one* ask for a "fish cleaning station." As a matter of fact, the vast majority of comments I have heard expressed serious and troubled concern over the presentation and direction of this kind of artificial city in the "wilderness." Looks to me, like most folks view this as developing a rich persons playground at the expense of something many, including my self, hold of dear value here: A land and water way where human breath and care may stand some harmonious

Henry W. Peters      E. 5132 Wildewood Ln. Apt 102      Ironwood MI  
49938

(906) 932-4715

hwpeters@provide.net

chance with what the good lord offers... The chance to give to future generations, some semblance of what potential the world, untrammled by total human misery and degradation!

- And speaking of focus groups, you stated some where in your meanderings regarding the possibilities for likely "riches" in this development that you would consult with "all local stakeholders," (paraphrase) regarding our concerns, and yet, from a discussion I had with some of the people who tried to sincerely participate in the "focus groups," you sponsored, their consensus opinion/s were evidently given no serious credence (i.e. consensus was only "advisory"). That, given the number of meetings and deals, i.e., watching the Nanterra & Co. at all of the public meetings, appearing to be playing footsie and other games with some of the Township and other "officials," was not something I felt in the least positive about.

I could go on... but I believe there is sufficient amount of consideration hereby presented to let you know the degree of "appreciation" I have for your little proposal.

No Docks!

Thank you for your attention.

Sincerely,

Henry W. Peters

cc: Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission (FERC)  
888 First St. N.E.  
Washington D.C. 20426

-----forward-----<>>> Environment News Service May 18, 2007

#### Deadly Fish Virus Spreads to More Species

ITHACA, New York -- A lethal fish virus in the Great Lakes and neighboring waterways is approaching epidemic proportions, says Paul Bowser, Cornell professor of aquatic animal medicine in the College of Veterinary Medicine.

The viral hemorrhagic septicemia virus, VHSV, which causes anemia and hemorrhaging in fish, has now been identified in 19 species and poses a potential threat to New York's \$1.2 billion sport-fishing industry.

This month the Wisconsin Department of Natural Resources made a presumptive identification of the virus for the first time in the Lake Winnebago chain of inland lakes about 25 miles south of Green Bay on Lake Michigan - confirmation is pending.

"It's pretty obvious this is an epidemic even if it isn't official," said Bowser. "There are just so many species affected and so many mortalities."

Henry W. Peters      E. 5132 Wildewood Ln. Apt 102      Ironwood MI  
49938

(906) 932-4715

hwpeters@provide.net

Three new fish kills have occurred in 2007 in New York waters since the virus was identified in the Great Lakes Basin in 2005.

In the St. Lawrence River, hundreds of thousands of round gobies have succumbed to the disease; gizzard shad die-offs from VHSV in Lake Ontario west of Rochester and in Dunkirk Harbor on Lake Erie have been reported.

And millions of dead freshwater drum formed rows of carcasses along the beaches of Lake Erie in 2006, all victims of VHSV.

Other species from the Great Lakes Basin area that have tested positive by Cornell include bluegill, rock bass, black crappie, pumpkinseed, smallmouth and largemouth bass, muskellunge, northern pike, walleye, yellow perch, channel catfish, brown bullhead, white perch, white bass, emerald shiner, bluntnose minnow, freshwater drum, round goby, gizzard shad and burbot.

Bowser suspects the virus may have originated from an infected marine fish off the Atlantic Coast. Other possible sources include the movement of infected fish by airborne or terrestrial predators, anglers using infected bait minnows, contaminated fishing equipment or live water wells in boats, boating activities and ballast water.

"Basically, we don't know how it got here, but it is here and it's spreading," said Bowser. "It would be wonderful if we did know. However, I don't think we ever will."

The Great Lakes VHSV is not related to the European or Japanese genotypes and poses no health threat to humans, said Bowser. Still, as a general rule, people should avoid eating any fish or game that appears abnormal or behaves abnormally.

Containing the virus will require restrictions on the movement of live fish, testing fish and surveillance. In Wisconsin, new emergency rules prohibit anglers and boaters from moving live fish and require them to drain their boats and live wells before leaving Wisconsin's Great Lakes waters and the Mississippi River.

The spread of the virus could have a devastating impact on aquaculture and particularly the channel catfish trade, which constitutes about 80 percent of aquaculture business in the United States, said Bowser.

Cornell's College of Veterinary Medicine has received a two-year, \$181,000 grant from the New York Sea Grant Program to advance a rapid technique for detecting the virus. Current tests take a month, while the Cornell test yields results within 24 hours. Researchers hope to have the new technique validated by the end of 2007 and all fieldwork completed by the end of 2008.

---

NOTICE: In accordance with Title 17 U.S.C. Section 107, this material is distributed without profit to those who have expressed a prior interest in receiving this information for research and educational purposes.

Comments re SMP (resent with letter to FERC).

Page 1 of 8

**Wolfe, Janet**

**From:** Henry W. Peters [hw Peters@provide.net]  
**Sent:** Friday, May 25, 2007 6:05 PM  
**To:** Wolfe, Janet  
**Subject:** Comments re SMP (resent with letter to FERC).

Dear Ms. Wolfe, et. al.,

I'm taking the liberty to resend my comments re the proposed SMP that has been reformatted to be more in accord with the way in which I typed them originally in my word processor, as well as some typos/misspellings corrected that may help clarify my intentions... Also included is my cover letter which I cc'd the FERC.

Regarding the NEPA concerns I raised (toward the bottom of the letter, re "NEPA 40 CFR PART 1500 Sec. 1508.7," I *do* realize that "cumulative effects" is only *part* of the need for EIS, not the *basis*, which I think I unintentionally more or less implied or stated. Sorry for any confusions here.

Sincerely,  
Henry Peters

----->  
Henry W. Peters      E. 5132 Wildewood Ln. Apt 102      Ironwood MI  
49938  
(906) 932-4715      hw Peters@provide.net

May 24, 2007

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission (FERC)  
888 First St. N.E.  
Washington D.C. 20426

Re: Shoreline Management Plans and Development Projects (SMPs), FERC  
Reservoir Project Numbers:  
Project No. 1864 (Bond and Victoria)  
Project No. 2402 (Prickett)  
Project No. 10856 (Au Train)  
Project No. 10854 (Cataract)  
Project No. 2506 (Boney Falls)

Dear Secretary Bose (and Commission),

Enclosed below are my comments on the SMP regarding the land sale and projected planned development anticipated to follow in the above referenced hydropower domains. I sent these comments, in timely fashion to UPPCO (i.e., May 21, 2007, the official deadline for public comment) by email... so the form differs slightly, printed. I also corrected, for clarity of understanding, several



misspellings and typos (and will therefore, resend remarks to UPPCO, noting slight changes).

The short of it is; I find extremely disconcerting the fact that (as far as I know) UPPCO/WPS/Nantera, Inc., has largely attempted to bypass public awarenesses regarding their intentions and perhaps even worse, the legally mandated regulatory authority of FERC, especially regarding the Project lands.

Please give this appropriate attentions... Generally speaking, this may not be the richest area (economically) in the nation, it has, however, been endowed with a certain measure of abundance (diversity in nature, and profound beauty!), as well as the opportunity to recover some measure of *wealth*, lost from previous generations of human induced error (i.e., careless mining practice, over logging... some of which involved (clear) cutting up to the edge of waterways... allowing for erosion, changes in turbidity, and temperature, for some example, the Grayling<sup>1</sup> was lost this way, as they were dependant upon the cooler water temperatures for breeding, and the removal of forest cover (shade) cause over-all water temperatures to rise, etc. (see footnote below on page two).

These "resources" above mentioned (and many not) address also, a future, POTENTIAL state of the world. The wheel is still in spin... It may be that citizens currently residing in these areas, will, or will not respond appropriately to the call for responsible actions to protect the above, but the opportunity for doing so would have no moral/ethical basis, if this same opportunity were removed from the realm of the possible by means of their own governmental indifference. This is your charge. I pray you act with appropriate consideration for ALL of the inhabitants of these areas.

Thank you for your consideration to this matter.

Sincerely,  
Henry W. Peters

Footnote:

1 <[http://en.wikipedia.org/wiki/Grayling\\_%28species%29](http://en.wikipedia.org/wiki/Grayling_%28species%29)>

The grayling (*Thymallus thymallus*) is a species of freshwater fish in the salmon family (family Salmonidae) of order Salmoniformes. It is the type species of its genus. Native to the Palearctic ecozone, the grayling is widespread throughout northern Europe, from the United Kingdom and France to the Ural Mountains in Russia. While it was introduced to Morocco in 1948, it does not appear to have become established there.

(snip)

*The grayling prefers cold, running riverine waters, but also occurs in lakes and, exceptionally, in brackish waters around the Baltic Sea. Omnivorous, the fish feeds on vegetable matter as well as crustaceans, insects and spiders, molluscs, zooplankton, and smaller fishes, including Eurasian minnows and*

yellow perch. Graylings are also prey for larger fish, including the huchen (Hucho hucho).

*With the Arctic grayling, T. thymallus is one of the economically important Thymallus species, being raised commercially and fished for sport.*

The grayling is a protected species listed in appendix III of the Bern Convention.

(emphasis added)

---

Henry W. Peters      E. 5132 Wildewood Ln. Apt 102      Ironwood MI  
 49938  
 (906) 932-4715                      hwpeters@provide.net

May 21, 2007

Ms. Janet Wolfe  
 Communications Manager  
 UPPCO  
 PO Box 130  
 Houghton, MI 49931-0130  
 Email: jwolfe@uppc.com

Re: Shoreline Management Plans and Development Projects (SMPs), FERC Reservoir Project Numbers:  
 Project No. 1864 (Bond and Victoria)  
 Project No. 2402 (Prickett)  
 Project No. 10856 (Au Train)  
 Project No. 10854 (Cataract)  
 Project No. 2506 (Boney Falls)

Dear Ms. Wolfe, et. al.,

Basically, in regards to the above referenced UPPCO/WPS hydropower area land sale areas to Nanterra, I wish to state my firm objection.

Off the top, as a longtime area resident of this area in the upper peninsula of Michigan and now land steward of my family's properties, 160 acres approximately seven miles south of Victoria reservoir (since 1941), from the time of my birth, I have lived off and on, or near my grandparents 1928 homestead, my experience tells me that any where near the placement of the projected watercraft in these commercially designed developments as outlined in the current edition of the "Shorline Management Plan" (SMP), with accompanying docking facilities, strikes any person who has some reasonable amount of awareness, experience and sensitivity to the magnificent but yet fragile diversity of ecosystems in the considered sale areas (and for the sake of discussion here: *especially the project lands*), of which some is just now beginning to recover from well over a centuries' previous mistakes, especially in regarding this abundant diversity as an *inexhaustible* resource of forest,

mineral/water or atmosphere. Unfortunately some of these areas, in close proximity, continue to take a beating... e.g., road building inappropriate logging, or other manner of oft mindless exploitation, and some areas, it is yet to be demonstrated even their potential for resilience.

If you get nothing more from this letter than this: I say, NO TO DOCKS IN THE SALE AREAS. But there is more, and I would now take this opportunity to expand a bit.

First of all, the license agreement, accomplished in 2003 between the Federal Energy Regulatory Commission (FERC) and UPPCO states (albeit in relation to the Wild and Scenic Rivers Act, which may or may not be at the moment, moot) that:

76. Section 7(a) does not bar the issuance of a license for its continued operation, *as long as no new construction is proposed,*<sup>54</sup> and UPPCO proposes no new construction in its re license application. (emphasis added)

And further it states:  
16 U.S.C. § 808(e).

LICENSE TERM

108. Section 15(e) of the FPA 63 provides that any new license issued shall be for a term which the Commission determines to be in the public interest, but the term may not be less than 30 years nor more than 50 years. 109. *The Commission's general policy is to establish 30-year terms for projects that propose little or no redevelopment, new construction, new capacity, or environmental mitigative and enhancement measures; 40-year terms for projects that propose moderate redevelopment, new construction, new capacity, or mitigation and enhancement measures; and 50-year terms for projects that propose extensive redevelopment, new construction, new capacity, or enhancement.* 110. *In Section 2.5 of the Agreement, the signatories agree to a 40-year license term. In 1991, UPPCO completed reconstruction of the Victoria dam and related facilities costing approximately \$14,000,000. UPPCO also completed a \$6,000,000 replacement of the woodstave pipeline with a spiral wound steel pipeline in 2001. In light of these expenditures and the enhancement measures and operational changes proposed pursuant to the Agreement, a term of 40 years is appropriate. Accordingly, the new license for the Bond Falls Project will have a term of 40 years.* (emphasis added)

In other words, the way I read this, the current license was granted to all areas under the condition that UPPCO did not project any more possible construction that would go beyond the proposed changes at Victoria dam reconstruction, so therefore, it seemed a 40 year license renewal was justified. This, among other features, is what the agreement was about.

Ok, so there were NON-project lands which are supposedly open for any business that the "owners" may choose... We might debate, in an other, more kind forum, the wisdom of this "any business" however, I wish to focus on my main concern here, the project lands and the project waterways...

What FERC approved for the Recreational Plan does not resemble in the least the massive changes now proposed... involving construction and intrusion of docks, landings, lights, and, of course, water craft with accompanying residences and *exponential variances* through time.

UPPCO/WPS commissioned a "drive by" biological survey... about a several day time line, *during only one season of many here which transpire*, using, for example, a helicopter to do raptor surveys...(absurd!). The "Michigan Hydro Relicensing Coalition" (MHRC) states in their August 28, 2006 letter to UPPCO that:

- "We recommend that UPPCO not identify these studies as "Environmental Assessments." Environmental Assessment (EA) has a specific meaning under the National Environmental Policy Act (NEPA). These assessments do not meet the requirements of an EA as defined under NEPA. In general, an EA includes brief discussions of the following: the need for the proposal, an analysis of alternatives, environmental impacts of the alternatives, and a listing of agencies and persons consulted."
- They go on to politely suggest that you call your over view preliminary, biased view assessment (of the publics willingness to digest the superficial!) as an "Environmental Baseline Assessment." I most respectfully cease my agreement with the MHRC at this point, as the study had more of an appearance of making a puppet show of the resource than any serious degree of concern for the possible correspondence to the important natural relations that show them *through time and space*.
- That said, from even a cursory glance at the comments the various commenting agencies made, both as individual organizations and as a coalition, there seemed more or less unanimous apprehension as to the sufficiency of the "E-Pro, Inc." survey.
- I would further add, besides an EA that, because of the scope and magnitude of these projects, both site specific and inclusive of the total projects areas covered in this proposed landscape modification of which a Federal Agency is the regulatory overseer (FERC), *cumulative effects* which include, by legal mandate, from the NEPA as cited below, an EA, a Biological Evaluation (BE) and also appropriate Environmental Impact Statements (EIS) need be done to maintain any credible compliance with the letter and spirit of applicable laws.

NEPA  
40 CFR PART 1500  
Sec. 1508.7

Cumulative impact. "Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

- Nature is, one way or another, in a dynamic condition... Where are the now, relatively every day discussed possibilities of GLOBAL CLIMATE CHANGE considerations in relation to these projects? !
- What happens, for example if, given that there is now generally admitted loss of fossil fuel ("peak oil), and the likely possible effects of this development?
- Where is the analysis of the probabilities, given you are inviting multiplying possibilities for who knows who, from who knows where regarding "viral hemorrhagic septicemia virus, VHSV, which causes anemia and hemorrhaging in fish," as cited in below included article, not to mention other invasive species of plant and animals (i.e., zebra muscle, etc.)?
- In this "Shoreline Management Plan" numbers of "proposed recreation enhancements are listed... very impressive... and supposedly members of the public ("local stakeholders") have, for example, asked for "fish cleaning stations." Well, I have been to most every public meeting (other than the so-called "focus groups.") and I have not once heard *any one* ask for a "fish cleaning station." As a matter of fact, the vast majority of comments I have heard expressed serious and troubled concern over the presentation and direction of this kind of artificial city in the "wilderness." Looks to me, like most folks view this as developing a rich persons playground at the expense of something many, including my self, hold of dear value here: A land and water way where human breath and care may stand some harmonious chance with what the good lord offers... (The chance to give to future generations, some semblance of what potential the world, untrammled by total human misery and degradation!
- And speaking of focus groups, you stated some where in your meanderings regarding the possibilities for likely "riches" in this development that you would consult with "all local stakeholders," (paraphrase) regarding our concerns, and yet, from a discussion I had with some of the people who tried to sincerely participate in the "focus groups," you sponsored, their consensus opinion/s were evidently given no serious credence (i.e. consensus was only "advisory"). That, given the number of meetings and deals, i.e., watching the Nanterre & Co. at all of the public meetings, appearing to be playing footsie and other games with some of the Township and other "officials," was not something I felt in the least positive about.

Comments re SMP (resent with letter to FERC).

Page 7 of 8

I could go on... but I believe there is sufficient amount of consideration hereby presented to let you know the degree of "appreciation" I have for your little proposal.

No Docks!

Thank you for your attention.

Sincerely,

Henry W. Peters

cc: Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission (FERC)  
838 First St. N.E.  
Washington D.C. 20426

-----forward-----<>>> Environment News  
Service May 18, 2007

#### Deadly Fish Virus Spreads to More Species

**I**THACA, New York -- A lethal fish virus in the Great Lakes and neighboring waterways is approaching epidemic proportions, says Paul Bowser, Cornell professor of aquatic animal medicine in the College of Veterinary Medicine.

The viral hemorrhagic septicemia virus, VHSV, which causes anemia and hemorrhaging in fish, has now been identified in 19 species and poses a potential threat to New York's \$1.2 billion sport-fishing industry.

This month the Wisconsin Department of Natural Resources made a presumptive identification of the virus for the first time in the Lake Winnebago chain of inland lakes about 25 miles south of Green Bay on Lake Michigan - confirmation is pending.

"It's pretty obvious this is an epidemic even if it isn't official," said Bowser. "There are just so many species affected and so many mortalities."

Three new fish kills have occurred in 2007 in New York waters since the virus was identified in the Great Lakes Basin in 2005.

In the St. Lawrence River, hundreds of thousands of round gobies have succumbed to the disease; gizzard shad die-offs from VHSV in Lake Ontario west of Rochester and in Dunkirk Harbor on Lake Erie have been reported.

And millions of dead freshwater drum formed rows of carcasses along the benches of Lake Erie in 2006, all victims of VHSV.

5/25/2007

Other species from the Great Lakes Basin area that have tested positive by Cornell include bluegill, rock bass, black crappie, pumpkinseed, smallmouth and largemouth bass, muskellunge, northern pike, walleye, yellow perch, channel catfish, brown bullhead, white perch, white bass, emerald shiner, bluntnose minnow, freshwater drum, round goby, gizzard shad and burbot.

Bowser suspects the virus may have originated from an infected marine fish off the Atlantic Coast. Other possible sources include the movement of infected fish by airborne or terrestrial predators, anglers using infected bait minnows, contaminated fishing equipment or live water wells in boats, boating activities and ballast water.

"Basically, we don't know how it got here, but it is here and it's spreading," said Bowser. "It would be wonderful if we did know. However, I don't think we ever will."

The Great Lakes VHSV is not related to the European or Japanese genotypes and poses no health threat to humans, said Bowser. Still, as a general rule, people should avoid eating any fish or game that appears abnormal or behaves abnormally.

Containing the virus will require restrictions on the movement of live fish, testing fish and surveillance. In Wisconsin, new emergency rules prohibit anglers and boaters from moving live fish and require them to drain their boats and live wells before leaving Wisconsin's Great Lakes waters and the Mississippi River.

The spread of the virus could have a devastating impact on aquaculture and particularly the channel catfish trade, which constitutes about 80 percent of aquaculture business in the United States, said Bowser.

Cornell's College of Veterinary Medicine has received a two-year, \$181,000 grant from the New York Sea Grant Program to advance a rapid technique for detecting the virus. Current tests take a month, while the Cornell test yields results within 24 hours. Researchers hope to have the new technique validated by the end of 2007 and all fieldwork completed by the end of 2008.

---

NOTICE: In accordance with Title 17 U.S.C. Section 107, this material is distributed without profit to those who have expressed a prior interest in receiving this information for research and educational purposes.

Upper Peninsula Power Company Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 85*  
25 May 2007

**PUBLIC COMMENTS FROM BARBARA QUENZI**



ORIGINAL

pquenzi

From: pquenzi [pquenzi@hughes.net]  
Sent: Wednesday, May 16, 2007 12:37 PM  
To: jwolfe@uppc.com  
Subject: Prickett dam

FILED  
OFFICE OF THE  
SECRETARY  
2007 MAY 25 P 3 12  
FEDERAL ENERGY  
REGULATORY COMMISSION

Janet Wolfe:

Re: FERC projects 2402 (Prickett); 1864 (Bond Falls/Victoria); 10855 (Au Train); 10854 (Cataract); 2506 (Boney Falls)

I oppose construction of docks at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites, as this will degrade wildlife habitat. I oppose removal of stumps at Prickett dam, as this will allow the increased traffic of motor boats to go at much higher speeds and generate more noise. I oppose the establishment of "view corridors" as this would further degrade wildlife habitat.

In my opinion, the UPPCO SMP does not protect and enhance wildlife habitat as required by FERC. Given the complexity of this issue and the limited scope of the Shoreline Management Plan, an Environmental Assessment should be required of UPPCO in this matter.

The wildness of the Victoria and Prickett dam areas (of which I am most familiar) is what makes them special.

*Barbara Quenzi*  
Barb Quenzi  
Ph: 906-482-7476  
Email: pquenzi@hughes.net

5-17-07  
Kimberly Bose,  
This is a copy of E-mail sent  
to Janet Wolfe at UPPCO.

Barbara Quenzi  
47220 Larson Rd.  
Atlantic Mine, MI  
49905

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 86*  
25 May 2007  
PUBLIC COMMENTS FROM MIKE STOCKWELL

# ORIGINAL

Dear sir,

I oppose shoreline construction, boating improvements, and excessive access trails proposed by Upper Peninsula Power Company at Northern Michigan's Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites.

I feel that the impact on the natural environment, and subsequent tourism industry has not been fully considered.

Project No. 1854 (Bond and Victoria)

Project No. 2402 (Prickett)

Project No. 10856 (Au Train)

Project No. 10854 (Cataract)

Project No. 2508 (Boney Falls)

Mike Stockwell  
13498 Rova Road  
Atlantic Mine, MI 49905

*Mike Stockwell*  
5/18/07

FILED  
OFFICE OF THE  
SECRETARY  
2007 MAY 25 P 3 14  
DEPARTMENT OF COMMERCE

Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)  
LAND SALES CONSULTATION DOCUMENTS

---

*Attachment 87*  
25 May 2007  
PUBLIC COMMENTS FROM SUZANNE VAN DAM

ORIGINAL

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E.  
Washington D.C. 20426

FILED  
OFFICE OF THE  
SECRETARY

2007 MAY 29 P 4:34

May 20, 2007

REGULATORY COMMISSION

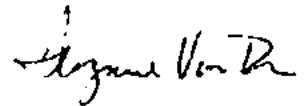
Dear Kimberly Bose,

This letter addresses the following FERC reservoir project numbers:

- > Project No. 1864 (Bond and Victoria)
- > Project No. 2402 (Prickett)
- > Project No. 10856 (Au Train)
- > Project No. 10854 (Cataract)
- > Project No. 2506 (Boney Falls)

I'm a resident of the Upper Peninsula of Michigan and am greatly concerned by the proposed management plan. I have visited and hiked near most of these special places, and I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required of UPPCO in this matter.

Sincerely,



Suzanne Van Dam  
702 W. Edwards  
Houghton, MI 49931

(906) 483-4729  
[Suzanne.vandam@finlandia.edu](mailto:Suzanne.vandam@finlandia.edu)

**Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)**  
**LAND SALES CONSULTATION DOCUMENTS**

---

*Attachment 88*  
**21 September 2007**  
**UNITED STATES DEPARTMENT OF INTERIOR**  
**FISH AND WILDLIFE SERVICE**  
**ENDANGERED SPECIES ACT**  
**SECTION 7 RESPONSE LETTER**



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
East Lansing Field Office (ES)  
2651 Coolidge Road, Suite 101  
East Lansing, Michigan 48823-6316

IN REPLY REFER TO:

September 21, 2007

Mr. Shawn Puzen  
Upper Peninsula Power Company  
700 North Adams Street  
PO Box 19001  
Green Bay, Wisconsin 54307-90001

Re: Endangered Species Act Section 7 Technical Assistance: Draft Shoreline Management Plans for Bond Falls, Prickett, Cataract, Au Train, and Boney Falls (FERC Project Nos 1864, 2402, 10854, 10856, and 2506 respectively).

Dear Mr. Puzen:

We appreciate the opportunity to review and comment on your draft Endangered Species Act (Act) section 7 effects determinations for the draft Shoreline Management Plans (SMPs) at the above referenced Federal Energy Regulatory Commission (FERC) licensed hydroelectric basins. This letter provides technical assistance to help you in further development of your endangered species effects determinations or biological evaluations (BEs). It is our understanding that section 7 consultation will be requested by FERC in the future.

The information contained in your BEs addressed the potential affects of implementing the draft SMPs on gray wolf, bald eagle, and Canada lynx. Currently, Canada lynx is the only species that may occur within the action area and which would require section 7 consultation. As of March 12, 2007, wolves in the Western Great Lakes District Population Segment, which includes Michigan, were removed from the federal list of endangered and threatened species. Bald eagles were delisted on August 8, 2007. Wolves and bald eagles no longer receive protection under the Act and section 7 consultation is no longer necessary, so we are only providing section 7 related comments on Canada lynx.

Although bald eagles no longer receive protection under the Act, they are protected by the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (BGEPA). Activities associated with implementing the SMPs have the potential to disturb bald eagles. Thus, we reviewed the bald eagle portion of your BE and are providing comments below to help clarify your bald eagle protection and management efforts and to highlight activities which may disturb eagles. These comments are provided to help you comply with BGEPA, the FERC licenses or approved plans for these projects may require additional efforts or considerations not addressed below.

Mr. Shawn Puzen

2

### Endangered Species Act Comments

Your assessment indicates that there is no available information indicating that Canada lynx are currently present or use the project areas around Bond, Prickett, Cataract, Au Train, Boney, or Victoria impoundments. We agree that if Canada lynx are present in the action areas they are likely limited to a small number of dispersing individuals and that there is no recent or current documentation of lynx breeding. However, detection of a very low number of dispersing individuals may be difficult. We believe that lynx may be present within suitable habitat in the Upper Peninsula and that project assessment for potential effects to lynx is prudent.

Therefore, we recommend you identify any potential lynx habitat within the FERC project boundaries around these basins. We realize that these areas are narrow buffers around the basins, and without adjacent habitat, would not provide large enough habitat areas for lynx. When determining lynx habitat suitability, these impoundment areas should be reviewed within the context of the larger surrounding landscape. If suitable habitat exists around the basins, then you should analyze the potential impacts to that habitat and lynx as a result of implementing the SMPs.

A determination regarding the effect of the project on Canada lynx was not articulated in the draft BE. A determination of no effect, not likely to adversely affect, or likely to adversely affect should be stated and justified in your determination.

### National Bald and Golden Eagle Protection Act Comments

Bald eagles receive protection under BGEPA which provides criminal and civil penalties for persons who "take" bald eagles. The definition of "take" under GEPA includes disturb. Disturb means:

"...to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

Your BE and SMPs suggest that increased boating and other recreational activities on or around these basins is expected as a result of implementing the SMPs. Some of the activities described in the SMPs are the development of cluster docks, individual docks, pedestrian trails, and pedestrian pathways. Depending on their location, these new developments, and the people associated with them, could disturb foraging and nesting bald eagles. Therefore, protective measures for bald eagles should be incorporated into the SMPs. Below we provide the important protective measures that were discussed in the BE, potential disturbing activities that require further consideration, and other comments to help clarify your document.



**Protective measures discussed:**

- Commercial timber harvesting will be prohibited around the impoundments allowing previously used nest trees and supercanopy trees to remain.
- A 660 foot radius around existing nest trees will be designated in the SMP as a Conservation Areas where no "development" would be allowed.
- Restricted activities within a 660 foot radius of the nest, including no motorized access, development of recreation facilities, or major project related construction activities (except dam safety related activities) during the breeding season.
- Restricted human entry within 330 feet of a nest, unless needed for eagle monitoring or research, during the breeding season.
- At Boney Falls, the winter bald eagle foraging areas will be delineated and ingress and egress into these areas would be minimized.
- At Boney Falls, the entire east side of the impoundment will be designated as Conservation Area or Project Operations Area. This will provide a continuous habitat area for perching and potential nesting.
- Land use activities that result in significant changes to the landscape such as clear cutting, land clearing, or major construction would be prohibited within 660 feet of a nest.
- Informational buoys will be placed in the water around the outer edges of the primary zone to discourage boaters from approaching active nests. Educational materials will be provided to the public to encourage cooperation in avoiding disturbance to eagles.

The above protective measures should be incorporated into the SMPs.

**Potential disturbing activities:**

- Increased boating and recreational activities on the impoundment could disturb important bald eagle foraging areas. Our May 2007 National Bald Eagle Management Guidelines (Guidelines) suggest avoiding commercial and recreational boating and fishing near critical eagle foraging areas during peak feeding times.
- Development of docks and other long term water facilities (ramps or docks) could impact bald eagle foraging areas. Our Guidelines suggest locating long-term and permanent water dependent facilities away from important eagle foraging areas.
- Under your plan, new nests would not receive the same level of protection as currently occupied nest sites. This could result in disturbance of birds by on-going

- recreational activities. Specifically, the BE states that if a pair of eagles choose to establish a new nest in an area already receiving human use resulting from recreation facilities, there will be no restriction of human activities in that area during the breeding season. Our Guidelines state that some intermittent, occasional, or irregular uses that pre-date eagle nesting in an area may disturb eagles and that activities in these areas may need to be adjusted to avoid disturbance. We recommend as new nests are initiated that area activities and their potential to disturb eagles should be evaluated on a case-by-case basis.
- Activities that create loud noises (such as fireworks) were not addressed in the BE or SMPs. These activities could disturb bald eagles and should be prohibited near nest sites during the breeding season.

We recommend you incorporate and address these concerns in your SMPs. We encourage you to further review the Guidelines and determine if other adjustments in the SMPs are necessary to protect eagles. Bald eagle guidelines and other relevant information can be found online at <http://www.fws.gov/migratorybirds/baldeagle.htm>.

**Other comments:**

- Please define for clarity primary, secondary, and tertiary zones around nest trees. Also, please define critical and moderately critical time periods.
- Your BE states that no development will occur within a 660 foot radius of a nest tree. What are you considering development? We assume all activities discussed in the SMP would be considered "developments." Please clarify.
- Your BE discusses primary and secondary nesting "areas." We believe you are discussing primary and secondary nest zones or buffers around nest trees. Primary and secondary nest areas could also be interpreted as two alternate nest trees. Please clarify.
- At Boney Falls, please explain the nature, extent, and timing of "ingress and egress" through foraging areas and how you intend to minimize these activities.
- Please describe how alternate nest trees will be protected and for what length of time. Our Guidelines suggest the same protection should be provided to alternate nest trees as are provided to active nest trees. Once 5 years of disuse have passed then protection may no longer be warranted.
- In reviewing the BE, we noted various dates for the critical period, moderately critical period, and dates of prohibited entry. We also noted different buffer zone radius' around nest trees. We understand this is due to different language in each of the FERC management plans. We recommend amending this part of each relevant

Mr. Shawn Puzen

5

management plan to reflect the current knowledge regarding important bald eagle nest periods and nest tree buffer zones.

- Future nest locations may not occur in Conservation Areas where "no development" would occur. If these nests occur in an area where paths or seasonal docks were allowed, explain how human disturbance would be avoided. We recommend that new nests are provided a similar level of protection from disturbance as current nests.

We appreciate the opportunity to comment on UPPCO's draft SMP's and BE. If you have further questions or need additional assistance, please contact Ms. Christie Deloria, at (906) 226-1240.

Sincerely,



Craig A. Czarnecki  
Field Supervisor

cc: U.S. Forest Service, Ottawa National Forest, Iron River, Michigan  
(Attn: Susan Spear)  
Michigan Department of Natural Resources, Marquette Fishery Office, Marquette,  
Michigan (Attn: Jessica Mistak)  
Keweenaw Bay Indian Community, Natural Resources Department, L'Anse, MI  
(Attn: Gene Mensch)  
Michigan Hydro Re-licensing Coalition, Houghton, MI (Attn: Bill Deephouse)  
Federal Energy Regulatory Commission, Washington, D.C. (Attn: Robert Fletcher)

**Upper Peninsula Power Company – Boney Falls (FERC NO. 2506)**  
**LAND SALES CONSULTATION DOCUMENTS**

---

*Attachment 89*  
**November 2007**  
**RESPONSE TO COMMENTS**  
**ON DRAFT SMP**

**Att. 60: Email Correspondence**

**Karin Andrus**  
**bambam4@jamadots.com**

I grew up camping on Bond Lake, so did my children. It is a tragedy that the next generations of my family will have to miss out on this experience. Bond will never be the same again because of greed and lies. Let the bucks stop here...NO DOCKS. I like Bond just the way it is. ....

**Response:** *Opinion noted*

**Wade Fleming**  
**wadefleming@hotmail.com**

NO DOCKS, NO WALK WAYS, NO LIGHTED PATHS. I like Bond just the way it is! I liked the dispersed campsites.....don't care much for the new and improved.

**Response:** *UPPCO has revised the Bond Falls SMP by reducing the total number of dock slips and eliminating the installation of underground electrical supply and permanent lighting on docks. There will be no lighted pathways.*

**Kelly Niemi**  
**kniemi@midrivers.com**

Bond Lake will never be the same after development. Can we preserve some serenity? Docks and lighted pathways will take away the last of any remaining serenity this haven held.

**Response:** *UPPCO has revised the Bond Falls SMP by reducing the total number of dock slips and eliminating the installation of underground electrical supply and permanent lighting on docks. There will be no lighted pathways.*

**Teresa Davis**  
**keysumland@aol.com**

I am against the development of Bond Falls. The docks and lights the prospective buyers want to put in will ruin the lake for the rest of the users. Although from what I understand you don't really care about the people that have raised their families on the lake. Me being one of thousands.

**Response:** *UPPCO has revised the Bond Falls SMP by reducing the total number of dock slips and eliminating the installation of underground electrical supply and permanent lighting on docks.*

**Jon and Norma Miller**  
**bambam4@jamadots.com**

We like Bond Lake the way it is. This area will not benefit from lakes like the ones in the lower peninsula. Traverse City is a jungle. NO DOCKS, NO LIGHTS, NO WALKWAYS.....

**Response:** *UPPCO has revised the Bond Falls SMP by reducing the total number of dock slips and eliminating the installation of underground electrical supply and permanent lighting on docks.*

**Wade Fleming**  
**wadefleming@hotmail.com**

Bond should be left the way it is! There shouldn't be any houses, docks, paths! By putting four hundred some houses on Bond, will destroy the lake for everyone! Do you really think those people would probably much rather to go shopping in Eagle River! Most of them will probably go eat in Land 'O' Lakes!

**Response:** *Opinion noted.*

**L. Ursin**  
**lursin@klaucens.com**

I find the proposed dock plan for Bond Falls to be totally unacceptable. The idea of 424 boat slips on land that is supposed to be managed for the public is not my idea of managing the land for the public. Nor is having homes ringing the lakes managing the land for the public. Nor is turning our wilderness camping into camping with your neighbor right next to you managing land for the public. In fact, there is no part of your plan that takes anyone's interests into account except for UPPCO's.

**Response:** *UPPCO has gone to considerable effort to produce SMPs that protect and enhance the project's natural resources and the project's primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources. In addition, UPPCO has dramatically increased Conservation Lands at all of the Projects, prohibited commercial tree harvesting (enhancing old growth forest characteristics) and will be prohibiting vehicular access on many existing logging roads.*

**Wade Fleming**  
**wadefleming@hotmail.com**

No docks, no paths, no lights

**Response:** *Opinion noted*

**Darren Yirek**  
**darrenyirek@charter.net**

I We have seen it time and time again. The bottom line is money. As long as "they" can turn a profit, there isn't any concern what happens to the landscape, wildlife, or serenity of this lake, or any other lake/property like it. They will conduct tests, and justify any environmental impacts, but the bottom line is the serenity of the lake will suffer no matter what they say or test. You can never get serenity or pristine shorelines back once humans dig in. We are the only species that has to protect ourselves, from ourselves, when it comes to greed. We have been raised to believe that making money by clearing and cutting Mother Earth is a good thing, a good idea, a good business venture. Since money is the driving force, it is near impossible to get an American business man to reverse his way of thinking when it comes to this topic. They believe the earth is here to bow down to them. During their working lives they (construction companies, real estate companies, etc.) will try to make as much as possible off our planet to provide for their own needs and desires, and it gets justified as "good development opportunity". When does it stop?

**Response:** *Opinions noted.*

**Mr. James A. Pietila**  
**jim.pietila@bcpl.state.wi.us**

Comments regarding docks at Bond Falls flowage. Please, no docks!!!

**Response:** *Opinion noted.*

**Bret Hautamaki**  
**bhautama@umich.edu**

As a major landowner taxpayer in both Interior & Haight townships, I am adamantly opposed to any development on project lands as proposed by the UPPCO SMP. It is in obvious conflict with the provisions of the FERC license agreement and poses a significant danger to a federally protected watershed and ecosystem. At a minimum, an independent, biologically-sound, environmental impact study should be mandated before any consideration be given. Please "do the right thing".

**Response:** *Opinions noted.*  
**Jennifer Tyminski**  
**jentyminski@hotmail.com**

Questions:

Is the map that shows the lots at Bond Falls & posted to the UPPAC website accurate?

If yes, why wasn't it made available to the public by UPPCO?

Why haven't we seen the development plans for the other flowages where land has been sold to Naterra?

If this map is not accurate, when will UPPCO release the preliminary development plans of the lakes where land has been sold?

Whether or not the map is accurate, we all know the land will be developed. Why hasn't the impact the proposed development and private uses of the project lands will have on the water quality been addressed in the draft Shoreline Management Plan.

Even though several of the lakes flow into rivers designed under the Wild & Scenic Rivers Act, the Draft SMP indicated that no special studies were planned because the flowages are not designated. This appears to be in conflict with the Wild & Scenic River Act & I believe the issue of water quality as it pertains to those rivers must be addressed.

**Response:** *Opinions noted. The lot layout is not part of the subject matter included in the SMP process as it is outside of the project boundary. Development of non-project lands is not subject to the SMPs or FERC jurisdiction.*

**Katie Alvord**  
ktalvord@myvine.com

I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett Lake, Victoria, Au Train, Cataract, Honey Falls, and Bond Falls sites. A full and adequate environmental impact report should be required of UPPCO in this matter.

**Response:** *Opinions noted.*

**Darren Yirek**  
darrenyirek@charter.net

It is beyond me how people can destroy our landscapes, environment, and our serenity all for the love of money. Once you start digging, that's it, you have taken another piece of our northwoods away forever. Money comes and goes, but what you are proposing is final and permanent. How can you think that what you are doing is "good business" or a "nice development". It is money, and that's all it ever is, it has to be. No one who visits or lives in that area wants this, and if they don't then who does? The people who it means the least to are the ones who will be developing, and those people just follow the stench of money. We are at a very critical point with our (northwoods) environment, as well as the entire planet itself. If these developments don't happen, then what, someone doesn't get the new Benz they've been eyeing. This whole thing stinks of greed. If these plans go through I hope those responsible can answer for themselves to our children and their children. Maybe the responsible party can give them a new car or something shiny, because that's what all this is about. You are not fooling anyone.

**Response:** *Opinions noted.*



**Chris Gale**  
**chgale@up.net**

I have lived in the UP for nearly 40 years. My family has owned property in this area for nearly a hundred years. I have had the good fortune of being able to have access to the various impoundments within an hour or two of where I live, to go hiking, camping, fishing, boating, and picnicking with my family. The presence of docks at these locations for the benefit of a few, and to the detriment of all, is a bad idea. Removal of stumps which provide safe refuge for fish and other water-based wildlife is a mistake.

I understand the temptation to develop these lands in the short run for much needed funding to support power generation, but again, this is a bad idea. I am ready to pay for the true cost of energy, to keep what we have. As humans, we are simply the "owners" of the land. Think about the generations to come, the generations who have benefited to date, and what you want to leave as your own personal legacy. I cannot believe that the legacy that you, or anyone at UPPCO wishes to leave to future generations is the destruction of the waterfront and wildlife by a few who want docks and clear boating.

**Response:** *Opinions noted.*

**Matt Van Grinsven**  
**jahrift@hotmail.com**

Fragmentation of wild area begins with seemingly small scale development. Collectively these individual development projects lead to more and more alteration of suitable habitat. Shoreline development will have dramatic impacts on wild game such as fish and birds, which brings in money to local economies. Shorelines are incredibly productive providing food and shelter for a diverse array of wildlife including loons, wood turtles, eagles, and sturgeon just to name a few. I strongly oppose construction of docks and all associated development proposed by the Upper Peninsula Power Company at Prickett (#2402), Victoria (#1864), Au Train (#10856), Cataract (#10854), Boney Falls (#2506) and Bond Falls (#1864) sites. Providing access to the general public to appreciate such areas is quite different than catering to large scale developers, who will potentially rid these areas of the very wildlife which attract people to these places. An Environmental Assessment should be required of UPPCO, as I do not believe the Shoreline Management Plan is enough to ensure that these areas are properly managed and protected.

**Response:** *UPPCO has gone to considerable effort to produce SMPs that protect and enhance the project's natural resources and the project's primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources.*

**Elaine Dougovito**  
eladoug@up.net

Please consider leaving Prickett Dam and Bond Falls as is. It is a beautiful pristine area and it would be nice if it could stay that way. If you must sell it for financial gain, consider an agency who would not develop it. Thanks for your consideration.

**Response:** *Opinions noted.*

**Thomas Hovel**  
Bearcub41@verizon.net

Please note my opposition to the development of current UPPCO/WPS property along or near the Bond Falls Flowage. In a time of rising energy costs, increased loss of natural environment due to development, and a decline in the overall quality of water resources, it appears that any typical ex-urban development will only exacerbate the destruction of the precious environment that is presented by the Bond Falls flowage. While much of the falls has been already effected by human's to produce energy, that should not provide any impetus to further effect the land area.

Instead, I would suggest, that if development is to occur, a small eco-friendly development on a small amount of acreage that could be used as a model for other development. The development could be accomplished in accord with the new standards being developed by LEEDS. With such a development you can develop a small area, say 80 or less acres, and yet the environment remains protected and the resources remain in a viable long lasting manner.

**Response:** *No development is being proposed in the project boundary, which is the subject of the Shoreline Management Plans.*

**Kenneth Kraft**  
kkraft@portup.com

The decision to consolidate the public campgrounds was made without public input. The elimination of the dispersed campsites and campground redesign should be re-evaluated as part of the Shoreline Management Plan process. It should be a campsite design that must benefit the public.

I am opposed to any private lighted individual and cluster docks or viewing corridors a any of the flowages. None of these activities is consistent with the current license.

I want the Federal Regulatory Commission to order a new Environmental Impact Study to assess the full impact of this development on the project lands.

**Response:** *Opinions noted.*

**Jim Tyminski**  
**jimtyminski@hotmail.com**

After reading the Draft Shoreline Management Plan, I am very upset to see that you are still planning for private lighted docks, pedestrian paths and at some flowages viewing corridors. I believe these uses will destroy the aesthetic qualities of these lakes and project lands. The shorelines should remain undisturbed.

**Response:** *UPPCO attempted to minimize visual impacts by locating individual docks and cluster docks in areas that were sheltered from prominent viewing locations around the impoundments, maintaining low profile docks and utilizing natural (muted) colors that do not stand out against the background landscape. Additionally, UPPCO has prohibited the installation of docks, boat lifts, and associated permanent lighting at the Victoria impoundment, therefore no impacts to aesthetic resources at the Victoria impoundment are anticipated. For the remaining impoundments, UPPCO has dramatically reduced the overall number of boat slips being proposed, has prohibited the installation of boat lifts, has reduced the number of view enhancement areas, and has prohibited the installation of permanent dock lighting. All of these measures are intended to minimize visual impacts.*

**Suzanne Tyminski**  
**styminski@hotmail.com**

I am opposed to all private uses of the project lands, including lighted docks and paths. These paths, while technically "open to the public" will lead from the new lot owners private property to a private lighted dock. I do not support a public trail around the flowage. I believe it will only further fragment wildlife habitat.

**Response:** *UPPCO has gone to considerable effort to produce SMPs that protects and enhances the project's natural resources and the project's primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources. FERC looks to licensees to provide the public with access to project lands and waters.*

**Raymond DaPra**  
**milo@portup.com**

After reading the Draft Shoreline Management Plan, I am very upset to see that you are planning for private lighted docks, trails and pedestrian paths at all the six flowages. I do not support the storage of boats on the projects land or viewing corridors. I believe these uses are consistent with the license since the intent of the buffer zone is to protect these areas. The shorelines should remain undisturbed.

**Response:** *The non-project uses of the projects lands include paths, trails, recreation enhancements, and dock structures. These uses are consistent with achieving an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters.*

**Pat Olejniczak**  
**Polenick1960@hotmail.com**

I am not impressed with UPPCO's increased "conservation areas". It is just an attempt to mitigate damage caused by private docks as well as trails and viewing corridors. I cannot support private docks on the project lands. Have any of the folks involved ever stopped even if for just a moment to think about the disruption of wildlife?

**Response:** *Opinions noted.*

**Lynette Potvin**  
**Lrpotvin@mtu.edu**

I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett (Project No. 2402, Victoria (Project No. 1864), Au Train (Project No. 10856), Cataract (Project No. 10854), Boney Falls (Project No. 2506), and Bond Falls (Project No. 1864) sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required by UPPCO in this matter.

**Response:** *Opinions noted.*

**Nancy Gatta**  
**ngatta@jamadots.com**

Please support the docks proposal for the Bond Falls development. As a teacher at Ewen-Trout Creek School, I see this development as a boon to our economy and to our school. The tax revenues generated by this can help save E-TC School, but without the docks, I cannot imagine that the land will look as attractive to potential buyers.

**Response:** *Comment noted.*

**Elaine Dougovito**  
**eladoug@up.net**

Please consider leaving Prickett Dam and Bond Falls as is. It is a beautiful pristine area and it would be nice if it could stay that way. If you must sell it for financial gain, consider an agency who would not develop it. Thanks for your consideration.

**Response:** *Opinions noted.*

**Tim Krause**

**krausemom7@hotmail.com**

My family for three generations have enjoyed the Bond Falls Flowage as area land owners and admirers of the natural beauty it holds. My father started coming here in the early 1950's, first hunting & then vacationing with the family, eventually buying property to insure his children and grandchildren would always enjoy this area. Now I feel the same way and my children to too. We have come to love the area, having camped and viewed the falls for 35 years. Now my grandchildren will be deprived of this because some people want to line their pockets with a get-rich-quick development. This development is going to destroy the beauty of a very serene area that people come from all over the world to see. We need to preserve the natural wild landscape & feel of this area for future generations to enjoy & experience. The falls, lake and land surrounding the lake are rare jewels that can only be found in the UP and when that peaceful quality is gone it is gone, never to be regained through development. The land was to be retained for conservation purposes, not intended for development by a greedy few, who intend to benefit from the destruction of the natural landscape. We hope you will do the right thing & stop this act in destroying the land & instead keep it as is for future generations to come to enjoy.

**Response:** *Opinions noted.*

**Kristin Tepsa**

**ktepsa@hotmail.com**

I would like to voice my vehement opposition to UPPCO's proposed development of these sites. I have been fortunate enough to have been able to enjoy visiting these sites and their wild and natural beauty for many decades and hope for my offspring to be able to do the same.

Project No. 1964 (Bond and Victoria)

Project No. 2402 (Prickett)

Project No. 10856 (Au Train)

Project No. 10854 (Cataract)

Project No. 2506 (Boney Falls)

**Response:** *Opinions noted.*

**Raymond DaPra**

**milo@portup.com**

After reading the Draft Shoreline Management Plan, I am very upset to see that you are planning for private lighted docks, trails and pedestrian paths at all the six flowages. I do not support the storage of boats on the project land or viewing corridors. I believe these uses will destroy the aesthetic qualities of these lakes and project lands. These uses are consistent with the license since the intent of the buffer zone is to protect these areas. The shorelines should remain undisturbed.

**Response:** *UPPCO attempted to minimize visual impacts by locating individual docks and cluster docks in areas that were sheltered from prominent viewing locations around the impoundments, maintaining low profile docks and utilizing natural (muted) colors that do not stand out against the background landscape. Additionally, UPPCO has prohibited the installation of docks, boat lifts, and associated permanent lighting at the Victoria impoundment, therefore no impacts to aesthetic resources at the Victoria impoundment are anticipated. For the remaining impoundments, UPPCO has dramatically reduced the overall number of boat slips being proposed, has prohibited the installation of boat lifts, has reduced the number of view enhancement areas, and has prohibited the installation of permanent dock lighting. All of these measures are intended to minimize visual impacts.*

**Phyllis Fredendall**  
phyllis.fredendall@finlandia.edu

I would encourage you to rethink the proposed developments on the dam sites Project Numbers 1864, 2402, 10856, 10854, and 2506.

I am particularly opposed to lighting areas that are not lit. The habitat is adversely affected as is for me the most precious and least appreciated asset we are quickly losing on this peninsula the night sky.

**Response:** *In response to comments from the public and agencies, UPPCO has prohibited the installation of permanent dock lighting on the referenced impoundments.*

**Roseanna Larrin**  
rlarrin@nmu.edu

The SMP meeting held at B-TC School was the first UPPCO public meeting that I have attended and it was very disappointing. We are used to having public meetings with some kind of open forum and the way you conduct your public meetings is very controlled. Obviously, you do not want to hear what the public has to say through an open forum. I assure you we can conduct ourselves as responsible, calm adults. Demanding that we write out questions on cards allowing you to choose which questions you answer or which part of the questions you answer is not having an open, public meeting. It is manipulative and just another way to control information a symbol of the low regard you have for the people of this area to make informed, reasonable, and rational decisions.

The SMP report itself is full of "carrots," what you think the people of this area would respond to. But, it is things that people like you and people who will be purchasing those lots, urban people, think are fine ideas. Many of us do not feel this way. We like Bond Lake as it is now, in its natural state. The things you are planning are things that may be found on any developed lake, any place in America. Bond Lake, as it is now, is not.

And, of course, everything that you are planning enhances the area for the urban people Naterra plans on enticing up here, as well as adding to your \$3 million contingency fee from Naterra. It is reprehensible that you represent these plans as "for the locals" when they are no such thing.

Your doublespeak is also demeaning. For example, referring to group of docks as "cluster docks" is ridiculous – we recognize a planned marina when we see one.

E-PRO's environmental study is flawed in major areas. I suspect that WhiteWater's is not. Please urge Naterra to release that environmental study to the public. A reality check is in order.

**Response:** *Opinions noted*

**Joe Hovel**  
**nwa@nnex.net**

As a coalition of citizens concerned for the integrity and quality of the UPPCO-held project lands surrounding reservoirs in the Upper Peninsula, the Northwoods Alliance would like to express deep concern about recently developed Shoreline Management Plans. We feel these plans to be inconsistent with the uses described in the FERC license and unacceptable for maintaining a healthy shoreline that is also conducive to non-intrusive public use.

We strongly feel that these SMPs fail to account for important environmental characteristics of the respective shorelines. For example, the proposed shoreline uses are contradictory to maintaining the old growth forest type called for by the FERC license.

Additionally, in many cases there are no provisions to protect habitat or nesting sites of threatened or endangered species such as osprey or bald eagle. It is also widely demonstrated that human impacts such as clearing and dock building and the traffic that they allow adversely affect riparian areas and lead to erosion, loss of biodiversity, and degradation of water quality.

Proposed developments on project lands such as docks, boat slips and viewing areas walking paths for private landowners will inevitably impact the potential for public recreational uses of these reservoir shorelines. Hiking pathways will be impeded or interrupted, wilderness camping opportunities will be diminished, and fishing areas will be restricted. Aside from these concrete and logistic changes, the wilderness atmosphere of the area will be damaged by docks, dock lights, and cleared corridors, as well as the development proposed on the adjoining non-project lands.

The activities outlined in the SMPs do not appear to fit within the current and, in most cases, recently renewed FERC project licenses. The license objectives serve to protect and enhance the environmental, scenic, and recreational values of project lands, and proposed SMP activities on these project lands satisfy none of the above. The management plans in no way describe how docks, view corridors, or increased traffic are consistent with the federal goals for the project lands.

In all, we believe the SMPs for these flowages as they stand to be inadequate and grossly noncompliant with the intended uses of these lands.

**Response:** *UPPCO has gone to considerable effort to produce SMPs that protect and enhance the project's natural resources and the project's primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources. In addition, UPPCO has dramatically increased Conservation Lands at all of the Projects, prohibited commercial tree harvesting (enhancing old growth forest characteristics) and will be prohibiting vehicular access on many existing logging roads.*

**David Rulison**  
**rulisond@hotmail.com**

I would like to take a few moments to comment on UPPCO's proposed development of Prickett Lake and other impoundments in the UP.

Straight out, I think it's a bad idea. I feel like we don't need any more "development" of this type anywhere in the UP, instead we need to preserve and protect more wild places, because we have less and less of them.

I know, from an economic point of view, it seems to make sense, to improve tax revenues, create some jobs, etc, but I think this could be achieved without changing the personality of the area.

If the sale of the lots and the, so called, development is inevitable, then why promote this action only to a high end, noisy, polluting type market?

Instead, why not market it to customer's looking for a beautiful, quiet, low impact setting that it is now, and emphasize the natural characteristics that currently define it, and write in sales agreements that demand it remain that way.

I feel that your proposals are really out of touch with the current demand for wild places in this county, and world for that matter, and that your short sightedness will result in degradation, not improvement, in the overall quality of life for the UP.

You need not look any further than the Grand Traverse area in the I.P, to see what and why these types of actions are needed and necessary, and to see how preservation and development can work hand in hand, to benefit us all.

**Response:** *Opinions noted.*



**James H. Graves, M.D.**  
**jsgraves@tds.net**

It is my understanding that UPPCO plans to sell several parcels of land in the UP and that these lands abut forest land that is a vital habitat for wildlife. I also understand that the licenses that UPPCO holds on these lands to be sold require UPPCO to enhance wildlife habitat. Given these facts, I am astonished that UPPCO could even consider the building boat docks to aid residential development in these sites. It should not be allowed. You should reconsider the terms of your licenses.

**Response:** *Opinions noted.*

**Kim K. Green**  
**kkgreen@skynet.net**

I urge you not to develop water shed areas, lakes, ponds, etc. owned by UPPCO as it is most likely to negatively affect wildlife.

Please seriously consider this request.

**Response:** *Opinions noted.*

**Diane Miller**  
**dmiller@mtu.edu**

I am registering my view on UPPCO's plan to develop lighted boat docks and viewsheds on the area reservoirs. Please do not do this. These lakes are appreciated for their wildness, and to change their character now would pose hazards to wildlife and change the spirit of the places. It would also violate the spirit (and perhaps the letter as well) of your original agreement regarding these properties.

Please allow for the continued protection of these places. Thank you.

**Response:** *In response to comments from the public and agencies, UPPCO has prohibited the installation of permanent dock lighting on the referenced impoundments. Additionally, UPPCO has reduced the number of enhanced view areas.*

**James A. Pietila**  
**Jim.pietila@bcpl.state.wi.us**

Re: Draft Shoreline Management Plan for Bond Falls flowage I've read most of the proposals for development of the flowage & certainly have no real concerns regarding the subdividing of private property. It's your property, do with it as you will.

According to my understanding, the shoreline is a different story. The license granted to FERC for impounding of water dictated that the shoreline be used by the public & was signed by UP Power Co. officials and FERC. Now GREED enters the picture & UP Power wants to get really rich (as does Naterra). If FERC would allow this change in shoreline management & allow docks of any kind on any of these flowages, it would be just another example of political corruption enhancing the rich. Please don't let this happen!

**Response:** *Opinions noted.*

**Michele Anderson**  
**Andersm2@sbcglobal.net**

This is to inform you that I strongly oppose construction of docks as proposed by the Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. I am referring to these projects:

Project No. 1864 (Bond and Victoria)  
Project No. 2402 (Prickett)  
Project No. 10856 (Au Train)  
Project No. 10854 (Cataract)  
Project No. 2506 (Boney Falls)

Given the complexity of this issue and the limited scope of the Shoreline Management Plan, an Environmental Assessment should be required of UPPCO in this matter. I understand that license agreements issued from the Federal Energy Regulatory Agency (FERC) for the generation of hydroelectric power require that UPPCO protect and enhance wildlife habitat, provide for public access and manage the forest for old-growth at these reservoirs. UPPCO's plans, which would threaten the health of forests, wood turtles, loons, eagles, migratory birds, and sturgeon appear to be contrary to these agreements.

I am also a customer of UPPCO and feel bad about supporting a company that puts profit above respect for the environment.

Thank you for considering these comments.

**Response:** *UPPCO has gone to considerable effort to produce SMPs that protect and enhance the project's natural resources and the project's primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources. FERC looks to licensees to provide the public with access to project lands and waters.*

**Rick Loduha**  
**rick.loduha@finlandia.edu**

I am writing to object to your plans to build docks at the hydro-electric reservoirs in your stewardship.

Such development will encourage the type of building that hardly fulfills the dictates of your licensing agreement, "...to protect and enhance wildlife habitat, provide for public access and manage the forest for old-growth ..."

Please do not take this path.

**Response:** *Opinions noted.*

**Kevin Botkins**  
**kevin@kevinskennel.com**

I am writing to register my opposition to the planned docks on Bond Falls flowage. Hundreds of docks and paths and lights would diminish the aesthetic appeal of this area. The affect of docks on fish habitat is well documented and this project would adversely impact a fine fishery.

I also anticipate some confusion and conflict with this quasi-private property on public land. Adjacent landowners would feel they were afforded some sort of privilege that they aren't necessarily entitled to. Rifts are sure to develop between recreational users and homeowners.

**Response:** *Opinions noted.*

**Merle Kindred**  
**mekindre@mtu.edu**

"Bread and circuses" is what kept the creaky, rotting old Roman Empire going longer than it should. Does America really need MORE ways to entertain itself by colonizing and technologizing yet more of its wilderness areas?

UPPCO can be a leader in environmental preservation and protection or it can become yet another ring-in-the-nose "grabacious" (Caribbean term for "greedy") follower as owner of pristine property that somebody wants to convert into \$\$\$\$\$.

We know that money speaks loudly and everything in America is justified on economic terms, so some of us must give voice to simply preserving non-vocal nature which operates without lust for money as its prime directive.

Please don't develop the reservoir areas.

**Response:** *Opinions noted.*

**Kathleen Krause**  
**krausemom78@hotmail.com**

Save Bond Lake, please don't agree to putting in the docks. We are the caretakers for future generations. We love it the way it is, don't ruin it. Sen. Debbie Stabenow, even people from Macomb County, enjoy this beautiful place so we expect you to step up and stop this! This was supposed to be for the public to enjoy in an environmentally safe way. Retain the natural beauty of the area. Save the Bond!!

**Response:** *Opinions noted.*

**Louie Dombroski**  
**Louie\_dombroski@yahoo.com**

I AM STRONGLY OPPOSED TO THE CONSTRUCTION OF DOCKS at Prickett, Victoria, Au Train, and Bond Falls sites as proposed by the Upper Peninsula Power Company.

The Shoreline Management Plan was inadequate and did not consider all of the important (sentence cutoff). Assessment should be required of UPPCO with regards to this issue.

Increased access does not have to mean motorized access, which will harm not only will (sentence cutoff).

Thank you for considering my views.

**Response:** *Opinions noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment.*

**Louie Dombroski**  
**Louie\_dombroski@yahoo.com**

I AM STRONGLY OPPOSED TO THE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Given the limited scope of the Shoreline Management Plan, an Environmental Assessment should be required of UPPCO in this matter.

Let's preserve these sites not just for wildlife, but for people who want to enjoy them quietly. There are too many lakes in our state already that allow motorized travel.

Thank you for considering my views.

**Response:** *Opinions noted.*

**Linda Cree**  
**creelinda@hotmail.com**

I'm writing to express my opposition to the construction of docks by UPPCO at Au Train, Victoria, Prickett, Cataract, Bond Falls, and Boney Falls.

I think most of us who live in the U.P. enjoy its rural-wilderness character and realize how rare this has become in our super-industrialized, highly urbanized world. Protecting the lakes from over-development is important to more than just Yoopers, however, everyone in Michigan and beyond our borders can benefit from the rich biodiversity and the natural beauty we have in the U.P. We need to take such values seriously, and do our part to protect and enhance this land.

Be a good neighbor. No docks, please.

**Response:** *Opinions noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment.*

**Aimee Cree Dunn**  
**starrivers@hotmail.com**

I want to register my opposition to UPPCO's proposed dock construction at Au Train, Victoria, Prickett, Cataract, Bond Falls, and Boney Falls. These areas are not the right areas for this sort of construction.

Listen to those of us who live here, who have lived throughout the northern Great Lakes region all our lives - keep the U.P. wild! No to UPPCO's proposed dock construction! What a violation of the public trust.

**Response:** *Opinions noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment.*

**Anna Drew**  
**Anna\_may16@yahoo.com**

NO DOCKS!

**Response:** *Opinions noted.*

**Sue Ellen Kingsley**  
**sekingsley@pasty.com**

NO DOCKS at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites.

**Response:** *Opinions noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment.*

**Joanne Lynn Thomas**  
**keylnaw@yahoo.com**

The plan to develop lighted private boat docks and "viewsheds" on six, area hydro-electric reservoirs, (i.e., Prickett Dam, Bond Falls, Victoria Falls, Au Train, Cataract, and Boney Falls) which would enhance the sale-ability of adjacent lands which UPPCO plans to sell to a developer, docks and development would, however, pose potential hazards to wildlife (loons, eagles, wood turtles, and migratory birds) and sturgeon.

Basically, UPPCO's plans violate the letter and especially the spirit of their original licensing agreement (administered by FERC, the Federal Energy Regulatory Commission.)

Please reconsider. Thank you.

**Response:** *Opinions noted.*

**Tom Church**  
**CrookedLa@aol.com**

As a member of the Western Focus Group, which was assembled to provide input for the Shoreline Management Plans, I do not feel that UPPCO has done justice to the input received from the Focus Group members. UPPCO wants to provide private docks on Project Lands to maximize profits from the sale of Non-Project Lands, and they have used the Shoreline Management Plans to circumvent the Focus Groups, the Public and the requirements of the FERC license.

Watersmeet Township Board, on which I serve, has voiced its opposition to private docks on Project Lands, unless those docks are available for use by the public. That simple request of public access to any docks on Project Lands has apparently been rejected by UPPCO. This clearly indicates to me that UPPCO's attitude of maximizing profits comes before the requirements of the FERC license or the desires and needs of the Public.

I strongly urge FERC to reject the proposal from UPPCO for private docks on Project Lands, and that FERC hold UPPCO to the requirements of the licenses for all of these projects. It is important that FERC work for the public good in the review and enforcement of these licenses.

**Response:** *UPPCO used the planning process and gathered feedback from regulatory bodies, state, local, and federal governmental agencies, non-governmental organizations, focus groups, and the general public. UPPCO has made significant revisions to the SMPs based on many of the ideas that were expressed during agency consultation and focus group meetings.*

**Jon Saari**  
**singert39@hotmail.com**

I am writing as a long-time user of several of the reservoirs that UPPCO has managed, under FERC regulations, for many years. I am concerned that major changes will occur through the sale of these lands to a Minnesota-based developer, and think that an Environmental Assessment is in order to assess these potential changes. UPPCO is charged with maintaining the wildlife habitat and wild nature of these places, which means they should stay pretty much as they are. The nights need not be illuminated by dock lights, the viewsheds enlarged through paths and tree cutting, the waters changed through docks and stump removal. These are big changes - - not to mention the residential development set back but very close to these water bodies - - and do not appear to me consistent with UPPCO's stewardship of these lands and waters.

**Response:** *In response to comments on the draft SMPs, UPPCO has prohibited the installation of permanent dock lighting, reduced the number of enhanced view areas, and eliminated the proposal to remove stumps at the Prickett impoundment.*

I have often in the past fished the waters below Prickett Dam. One year I had the unusual experience of watching a huge sturgeon moving upstream to spawn. I have also found, and collected the shells of wood turtles along this stretch of water. Both species deserve special attention, and any changes to Prickett Dam reservoir (Project No. 2402 must include a consideration of the impacts on these two species.

**Response:** *Each SMP includes a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP.*

Victoria Reservoir (Project No. 1964) is also a special concern for me. This reservoir lies within the Ontonagon River system, which is partially protected under the federal Wild and Scenic Rivers program. To the West along the river is thirty miles of Ottawa National Forest, much of it along the Trap Hills escarpment - - a special corner of the U.P. That deserves enhanced protection as a national treasure. Victoria Reservoir is a wild place today, and I find the prospect of residential settlement near its shores incompatible with this wild character (as seen in the river system and in the Trap Hills). This is not a well used recreational corridor, like Boney Falls (Project No. 2506) or Bond Falls. These differences among the reservoirs should also be noted in an Environmental Assessment of all six reservoirs, for each of them has a different character.

**Response:** *Through implementation of the SMPs, UPPCO proposed to prohibit docks, permanent dock lighting, public trails, and enhanced view areas at the Victoria impoundment.*

The days are long gone when it was the task of public bodies to facilitate the exploitation of natural resources for private gain. The resumption today is that private gain must be rigorously justified, when it affects other values negatively. The sale and private reconfiguration of these six reservoirs is such a case for rigorous public review.

Thank you for hearing my views.

**Gina Nicholas**  
**wildlandco@aol.com**

The purpose of this letter is to oppose construction of docks and other development as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan, an Environmental Assessment should be required of UPPCO in this matter. UPPCO has the opportunity to be a good steward of these pristine natural areas. Please reconsider these short sighted development plans.

Thank you for your consideration.

**Response:** *Opinions noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment.*

**Wade Fleming**  
**wadefleming@hotmail.com**

Enhanced viewing areas? I don't think looking at 424 houses and docks will enhance anything! Private trails connecting with public trails isn't a good idea it'll just create problems between the general public and the pickers. The development on any of these flowages isn't a good development.

**Response:** *Opinion noted.*

**Norma Veurink**

I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Much of the UPPCO-owned land on these reservoirs is surrounded by National Forest and has been protected for many generations. I believe maintaining private docks on regulated reservoirs for the purpose of making them more attractive to developers deviates from the intent of the hydro-license agreements. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required of UPPCO in this matter. My comments apply to all of the projects listed below:

Project No. 1964 (Bond and Victoria)  
Project No. 2402 (Prickett)  
Project No. 10856 (Au Train)  
Project No. 10854 (Cataract)  
Project No. 2506 (Boney Falls)

The UP is a special place to live and enjoy. It would be a shame to develop all/much of the shoreline of the lakes and reservoirs as is the case in lower Michigan. In the UP, much of the



development on water bodies is for summer time use only. In the Keweenaw Peninsula, shoreline that has been open to the public for generations has been sold and 4000 sq. ft. houses have build on the shoreline. These huge homes are used for maybe six weeks out of the year. However, the landscape has been permanently altered, and the public can no longer enjoy the shoreline. Please preserve the special areas listed above for wildlhf, natural beauty, and natural enjoyment.

**Response:** *Opinion noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment. Additionally, the draft SMP's have been revised to dramatically reduce the overall number of proposed boat slips*

**Victoria James**  
**vjames1@charter.net**

I have already sent my Focus Group comments to UPPCO/WPS/Naterra separately, and to FERC a few days ago. If WPS/Naterra had been honest about their recent disclosures during the relicensing process, my feelings may have been different.

I support well-thought out development in our area; after all, we live here, and we need a sustainable economy. However, the cavalier methods employed by UPPCO/WPS/Naterra lead me to seriously doubt whether this venture is the kind of economic development that the area so desperately needs.

**Response:** *Opinion noted*

**James Rein**  
**jetsrein@charter.net**

I am a 20 year landowner of property on Bond Flowage and an avid outdoor enthusiast who has extensively utilized the flowage areas for numerous recreational opportunities. UPPCO has never permitted us or our neighbors to have private docks. UPPCO's corporate policy has always prohibited private docks in the FERC project lands.

Only after the sale of non-project lands to Naterra, UPPCO now claims private docks for the new Naterra lot owners are appropriate. The question is "Why?" The answer is "An extra \$3,000,000.00 dollars."

As a landowner who is intimately familiar with this entire flowage area, I totally disagree with UPPCO's present contentions. The highly fluctuating water levels alone, are not conducive to docks of any kind. Additionally, private docks seem to directly contrast with the terms and spirit of the FERC licensing agreements. I believe private docks and other exclusive amenities planned for the Naterra lot owners, are not consistent with the FERC license requirements of "enhancing and protecting the scenic, recreational and environmental values of the hydro project."

I support and echo the requests of over 1700 individuals, who urge FERC to order a new EIS to determine the cumulative affects these development proposals will have on the sensitive environment, ecosystems, aesthetic beauty, recreational opportunities, and abundant and varied wildlife species of the flowages. I also support and echo the request for COS studies and request that the campground displacements be rescinded and re-examined as part of the SMPs, so adequate public involvement can be undertaken and any changes will be fair to the public, instead of what has happened with removing the previously dispersed campsites.

Also, private docks will obstruct the presently existing unencumbered public access enjoyed by thousands of visitors to Bond every year. As a landowner who will be adversely affected by the Shoreline Management Plans, I vehemently oppose the UPPCO/WPS & Naterra plans.

Keep your promises, UPPCO/WPS and manage these flowages for the public. Do the right thing and stop the docks.

No private docks in the FERC project lands. NO DOCKS!

**Response:** *Opinions noted.*

**Rosemary Grier**  
rgrier@remc1.net

I am a resident of the Western U.P. and I strongly oppose the language in the draft SMP that would forever negatively alter the unique wilderness areas of all the UPPCO impoundments in this vicinity.

**Response:** *Opinions noted.*

**Ann Pace**  
apace@charter.net

I am strongly opposed to the docks that UPPCO is proposing to build on various sites in the UP. These are Project No. 2506, Project No. 10854, Project No. 10856, Project No. 2402, and Project No 1964 (Boney Falls, Cataract, Au Train, Prickett and Bond and Victoria). These proposed projects and other aspects of UPPCO's "Shoreline Management Plans" seem inconsistent with UPPCO's legal obligations to protect and enhance wildlife habitat.

I believe they do not serve the long-term public good.

**Response:** *Opinion noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment. Additionally, the draft SMPs have been revised to dramatically reduce the overall number of proposed boat slips.*

**John Slivon**

**john@jredesign.net**

I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required of UPPCO in this matter. UPPCO must be made to comply with its legal agreement to protect wildlife as part of its agreement to use these areas for the generation of power.

**Response:** *Opinion noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment. Additionally, the draft SMPs have been revised to dramatically reduce the overall number of proposed boat slips.*

**John Slivon**

**frogs@charter.net**

I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required of UPPCO in this matter. UPPCO apparently agreed to protect wildlife as a condition to generate power on these waterways and must be held to that agreement. Building docks and disrupting the surrounding land will not do anything to protect wildlife and can only be detrimental to wildlife.

**Response:** *Opinion noted. UPPCO has revised the Bond Falls SMP to prohibit the installation of docks at the Victoria impoundment. Additionally, the draft SMPs have been revised to dramatically reduce the overall number of proposed boat slips.*

**Connie Sherry**

**csherry@up.net**

I am a native Yooper who now lives in Iron County, but come from Houghton County. For years, the public has had access to the wonderful wilderness lakes of the dam impoundments at Victoria, Prickett, and Bond Falls dams. IF this must change, I urge you to keep it safe for wildlife by keeping the wilderness character of those bodies of water.

I am opposed to language in the draft SMP's that would alter the wilderness character of the UPPCO impoundments in the Western UP.

**Response:** *Opinion noted*

**Att. 61: Amy Clickner – Lake Superior Community Partnership, Inc.**

RE: FERC No. 10854 Cataract Project  
FERC No. 2506 Boney Falls Project

The Lake Superior Community Partnership (LSCP) supports the Shoreline Management Plans submitted by the Upper Peninsula Power Company for the use and development of the Cataract and Boney Falls Reservoirs in Marquette County, Michigan.

LSCP participated as a member of the local Focus Group regarding the use of these sites and the process allowed over many months for input and consideration of the recommendations from interested parties, including environmental, hunting and fishing business and governmental representatives. In addition to this consultation with a diverse group of stakeholders, we know that also UPPCO conducted public presentations and opportunities for citizens to comment at them and met with officials from local, state and federal government and state and federal resource agencies. We are also pleased that UPPCO offered an SMP public comment period.

From an economic and community development perspective, we are pleased that public access to these reservoirs will be preserved, while allowing for residential opportunities in a beautifully preserved natural setting. The plan provides an opportunity for local contractors to build lakefront homes and provides tax base expansion for local townships. We view this as an opportunity to enhance access to our natural environment, increase opportunity for the general public and tourists to utilize these sites and create jobs and tax revenue for our county and local community.

We appreciate the opportunity to participate in this collaborative effort, and endorse and support the final Shoreline Management Plans after reviewing the draft plans and final environmental reports produced by a nationally-known and respected firm.

We look forward to working with UPPCO and the Naterra Land Company to promote the natural beauty of our area to local residents and seasonal visitors.

**Response:** *Comment noted.*

**Att. 62: Ronald Backus**

We have been very disappointed with what seems a betrayal of the interests U.P. residents and vacationers by UPPCO since we had thought the lands and shore lines held by them were in trust for all, in the return for UPPCO's use of our waters to produce electric power for profit. Sale to a development company for development of lakefront lots is not in the public interest.

We do not expect a change in this for profit business decision, but we do hope that public agencies (FERC & others) will ensure adherence to environmental laws and when the right impacts of development.

We hope UPPCO will consider the well being of our people and our opinions please.

**Response:** *Comments noted.*

### **Att. 63: Tom Wolfe**

Over the past year, I attended several meetings hosted by UPPCO. I had hoped I would be permitted to speak and ask questions. Instead, UPPCO made a mockery of this important "public" process. Questions had to be written on cards only to be screened by the facilitator. We were told we could not ask any questions about the proposed development or the impact the development would have on the flowages. When a question was read, it was only partially answered, if it was answered at all. Follow-up questions were not permitted. UPPCO told us only what they wanted the public to hear.

I am a property owner on Calderwood Rd. (Interior Township) and do not believe docks should be permitted at Bond Flowage or any of the other flowages in the U.P.

I must use the public access to launch my boat and then take it home at the end of the day or according to the draft SMP, pay to use a "public dock". I believe the new lot owners should follow the same restrictions the rest of us do. As an avid fisherman and hunter, I believe care must be taken to protect the natural resources of the area. The placement of lighted docks, electric hoists and trails within the project lands will cause irreparable damage, particularly affecting the wildlife habitat and the aesthetic values of the flowages. None of these uses should be permitted.

**Response:** *Opinions noted. UPPCO has gone to considerable effort to produce SMPs that achieve an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters. In response to comments from agencies and the public, UPPCO has revised the SMPs to, among other items, eliminate the installation of underground electric wiring, the installation of permanent dock lighting, and the installation of boat lifts. Additionally, the final SMPs have been revised to reflect a reduction in the total number of proposed boat slips*

### **Att. 64: Robert R. Hagen, Jr.**

I am writing to register my opposition to the planned easements to the Upper Peninsula Power Company's Shoreline Management Plan (SMP) for Projects Numbers: 10854 (Cataract), 2402 (Prickett), 1864 (Bond, Victoria), 10856 (AuTrain) and 2406 (Boney Falls).

My opposition is based on the harm such easements will do to the scenic, recreational and environmental values of the surrounding areas. I am a native of Houghton, Michigan and was a long-time stockholder in the Power Company. I am appalled at the lack of concern for the natural environment displayed by the Power Company's SMP. Once developed, such lands are lost to the

public forever. The least the FERC can do is to exercise its responsibility to the environment and minimize the harm done. I do not want the Upper Peninsula of Michigan, my home area to which I plan to retire, to turn into another Cape Cod where you have to drive for miles without a view of the ocean due to private development.

Once private development occurs, there is no going back. The least the federal government can do is perform its duties as a steward of public resources. Thank you very much for your attention to this matter.

**Response:** *Opinions noted.*

**Att. 65: Jonathan Mead – Upper Peninsula Association of County Commissioners**

WHEREAS, Upper Peninsula Power Company has unveiled Shoreline Management Plans for project lands at its five hydroelectric projects (Numbers: 2402, 10854, 2506, 10856 and 1864) located in numerous U.P. counties; and,

WHEREAS, the Shoreline Management Plans include proposals to protect the environment and enhance recreational opportunities for citizens at the flowages, as well as ensure that proposed activities are consistent with the purposes of protecting and enhancing the scenic, recreational and other environmental values of each project; and,

WHEREAS, these draft plans were developed based on more than 14 months of input from state and federal resource agencies, local government officials and the public. In addition, UPPCO conducted focus groups consisting of various stakeholders, including representatives from county and township boards, hunting and fishing interests, outdoor enthusiasts and economic development. UPPCO also conducted public meetings and invited comments from citizens concerning the plans. The company also engaged the public over many months regarding plans to sell UPPCO private property at the five hydroelectric projects; and,

WHEREAS, the flowages these Plans address will continue to be open for people to use alongside numerous acres of U.P. acres already available to citizens, including state and federal lands such as the Hiawatha and Ottawa National Forests that are off limits to development; and,

WHEREAS, it is projected that any development resulting from the sale of property at the projects will over time assist the U.P. construction trades industry, help local businesses and grow local tax bases to the benefit of schools, as well as township and county units of government and the programs and services they provide to citizens. Broadening the tax base in U.P. counties is welcomed, recognizing the state's current financial status and economic outlook; now therefore,

BE IT RESOLVED, that the Upper Peninsula Association of County Commissioners (UPACC) hereby approves this resolution of support for the Plans with the expectation that UPPCO will continue working with local units of government and other stakeholders as the process continues

and directs that a copy of this document be transmitted to U.P. Power Company and appropriate state and federal officials.

**Response:** *Comments noted.*

**Att. 66: Henry DeGroot, Supervisor – Wells Township Board**

I wish to inform you that the Wells Township Board has reviewed the Boney Falls "Shoreline Management Plans."

Our Board is encouraged and pleased that planned development resulting from these Plans would as time progresses help improve the economic climate of our township, providing a needed new tax base increase, thereby providing needed resources to our citizens by our government and county.

The plan provides an opportunity for local contractors to build waterfront homes, assist local building supply firms and provide additional jobs. All this assistance is welcome, given our state and region's challenging economic times.

Further, the additional tax revenue generated would be a great asset to the Wells Township School District (K-8) which is struggling under current state budget conditions.

The Board also views this as an opportunity to enhance access to our natural environment, to promote the natural beauty of our area to local residents, the general public and tourists to utilize these sites.

We are pleased the environmental protection and recreational improvements have been proposed. We call your attention to information in the Plans about property around these flowages the public now use and will continue using in addition to utilizing Boney Falls.

In closing, we offer our support for the Plans with the request that UPPCO continue working with local stakeholders.

**Response:** *Comment noted*

**Att. 67: Gerald O. Corkin, Chairperson – Marquette County Board of Commissioners**

MARQUETTE COUNTY BOARD OF COMMISSIONERS  
RESOLUTION IN SUPPORT OF  
SHORELINE MANAGEMENT PLANS FOR  
UPPER PENINSULA POWER COMPANY'S  
CATARACT AND BONEY FALLS FLOWAGES

WHEREAS, the Marquette County Board of Commissioners has reviewed in consultation with the County Planning Commission proposed Shoreline Management Plans for Upper Peninsula Power Company's Cataract (#1084) and Boney Falls (#2506) flowages; and

WHEREAS, these plans were developed based on over 14 months of input from resource agencies, local and state government leaders, the public and a UPPCO focus group that included representatives from this board and several townships, as well as outdoor enthusiasts and the Lake Superior Community Partnership, which the Board notes has gone on record in support of the plans. The draft plans include recreational enhancements for the public good and proposals to protect the environment and promote responsible development; and

WHEREAS, it should be noted that the project lands at these flowages will remain open for public, allowing Boney Falls and Cataract to continue being resources for people to use alongside more than 280,000 acres of land open to the public in Marquette County, as well as 416,000 acres in the Escanaba River State Forest of the Central Upper Peninsula; and

WHEREAS, the Board notes that UPPCO's non-project lands sold at these flowages are expected over time to play a role in diversifying the County's economy. Given this time of uncertainty about future state aid to local units of government and the Michigan economy, the Board welcomes development that would broaden the Marquette County tax base and provide new revenue to help fund services citizens rely on from local government, as well as help the construction trades industry. Any new tax base will also be of help to applicable K-12 Public and Intermediate School Districts.

NOW THEREFORE BE IT RESOLVED, that the Marquette County Board of Commissioners hereby offers support for the Shoreline Management Plans and that a copy of this Resolution is transmitted to appropriate UPPCO and government officials.

Adopted this 15<sup>th</sup> day of May, 2007

When the Committee of the Whole met on Tuesday, May 8, 2007, they considered a recommendation from the Marquette County Planning Commission review of the Draft Shoreline Management Plans for the Cataract Basin and Boney Falls.

Dottie Lewis, Planner, was present to answer any questions. During the regular scheduled meeting on May 2, 2007, the Marquette County Planning Commission reviewed the Draft Shoreline Management Plans for the Cataract Basin in Forsyth Township, and the Boney Falls Basin in Wells Township. The plans were prepared by the Upper Peninsula Power Company (UPPCO) as a Federal Energy Regulatory Commission requirement. UPPCO developed the plans in response to the recent UPPCO non-project land purchases by Naterra Land Company surrounding the two basins. The Planning Commission reviewed the Draft Plans for planning process and consistency with the Marquette County Comprehensive Plan.



The planning process involved input from members of focus groups, local government officials, and the general public. All proposed recreation enhancement would be located on the project lands according to the land's classification. Classification was determined according to field investigations that determined land suitability and resource inventory. In addition, the proposed recreation enhancements would be designed and funded by UPPCO.

According to the Marquette County Comprehensive Plan Recreation Policies, the County is encouraged to promote the cooperation among government units, other public and private organizations, and businesses in developing recreational programs and facilities.

The Planning Commission agreed that UPPCO's proposed recreation enhancements to the Cataract Basin and Boney Falls, which include the design, development, maintenance and operation of trails, fishing piers, historical interpretive maps, bathymetric maps of the water flow, dock systems and recreational brochures would be a benefit to Marquette County. Commissioners unanimously agreed that the proposed enhancements would increase the surrounding property values and therefore increase taxes to the municipalities.

The Marquette County Planning Commission fully supports the recreational enhancements proposed in the Draft Shoreline Management Plans for the Cataract and Boney Falls basins.

It was moved by Commissioner Bergdahl, seconded by Commissioner Heikkila, and unanimously carried by voice vote that the Committee of the Whole recommend the County Board support the Draft Shoreline Management Plans for the Cataract Basin and Boney Falls.

**Response:** *Comment noted.*

**Att. 68: Steve Hovel**

RE: P-1864, 2402, 10856, 10854, 2506  
RE: The application by UPPCO and its SMP for all of the above  
Attention:  
Janet Wolfe, Communications Manager  
UPPCO  
CC: Kimberly D. Bose Federal Energy Regulatory Commission

Dear Janet and Kimberly,

I oppose modifications to the original license and I oppose the new SMP as proposed by UPPCO.

As I viewed the SMPs for Bond and Prickett and looked at the maps of the areas it is clear that the human disturbance will fragment the ecosystem. I am a retired Environmental Science Instructor, and in my analysis to allow development of building sites and then piers and docks as

proposed would certainly interfere with the contiguous habitat requirements of a number of species.

While many species can adapt to humans including whitetail deer and the skunk, it is the much rarer and endangered or threatened species that will not be able to adapt.

All species have a Zone of Tolerance shaped like a bell shaped curve, now divide that bell with 5 vertical zones with the center being the optimum range. every species has its own range of what it can tolerate and thus its own bell shaped curve for every environmental factor, such as temperature, sunlight, rainfall, competition on and on, including man made factors such as noise, as well as habitat fragmentation. When a species is forced to try to live outside of its optimum range it encounters stress.

This could result in a variety of consequences ranging from poor reproduction (to no reproduction) to loss of the species. The species may simply move and leave the area (emigration) or may perish while trying to adapt. Plant species can not pack up and go. A coyote could adapt the timber wolf would not, the whitetail deer would adapt the Moose would not, now include all species including migratory song birds. (The US Army Corps of Engineers can update you on the Federal Migratory Bird Act which would have an impact on the wetland areas such as flood plain next to all rivers.) In addition human disturbance will lead to the intrusion of a number of invasive species or "non natives".

It is well documented that the number one cause of a loss of species is loss of habitat. Today unless there is a natural disaster the main cause of a loss of habitat starts with fragmentation of the original habitat by humans. Add to this other environmental factors such as climate change and the ecosystem is severely stressed, and finds itself in an artificial zone of tension. Plant species and everything else associated would be altered forever.

I am not opposed to sales to some types of conservation minded groups, nor am I opposed to all types of development. But to take these large tracks of land and change their management to allow for multiple building sites and water access would be a fatal blow to the ecosystem as it has evolved over the thousands of years since the glaciers.

Sincerely,

Steve Hovel  
W6054 Creamery Road  
Fort Atkinson, WI 53538

**Response:** *Opinions noted. Each SMP includes a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP. UPPCO utilized numerous FERC orders approving SMPs and non-project use of project lands as the template for the environmental impact analysis. UPPCO has taken great care in revising the SMPs to assure the proposed non-project uses proposed do not result in fragmentation (breaks in the forest canopy). Additionally, UPPCO designed the SMPs to be consistent with, and in many instances*

*to further, the goals and objectives of the overall requirements of the projects' licenses and FERC-mandated management and monitoring plans.*

**Att. 69: Jim Lyons**

May 17, 2007

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St N.E.  
Washington D.C. 20426

Re: Please protect Michigan's undeveloped water bodies: Project No. 1864 (Bond and Victoria), Project No. 2402 (Prickett), Project No.10856 (Au Train), Project No.10854 (Cataract) and Project No. 2506 (Boney Falls).

Dear Secretary Bose,

I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required of UPPCO in this matter.

Building these docks will fail the mitigation for these license agreements UPPCO agreed to protect Please safeguard and enhance wildlife habitat, provide for public access and manage the forest for old-growth (at Bond Falls and Victoria Reservoirs) as previously agreed.

We hope to visit this part of Michigan one day but will not if this shoreline lose their undeveloped character.

Sincerely,  
Jim Lyons

**Response:** *Opinions noted.*

**Att. 70: William Malmsten – Upper Peninsula Environmental Coalition**

May 17, 2007

Janet Wolfe, Communications Manager  
Upper Peninsula Power Company  
PO Box 130  
Houghton, MI 49931-0130

RE: COMMENTS ON DRAFT SHORELINE MANAGERMENTS PLANS FOR SIX BASINS  
IN THE UPPER PENINSULA OF MICHIGAN

Dear Ms Wolfe:

The following comments are in regard to the draft Shoreline Management Plans (SMPs) for six basins in the Upper Peninsula of Michigan, specifically as follows: Project Numbers: 10854 (Cataract), 2402 (Prickett), 1864 (Bond/Victoria), 10856 (AuTrain), and 2406 (Boney Falls) (the basins hereinafter).

These comments are submitted on behalf of the Upper Peninsula Environmental Coalition (UPEC). UPEC is a grass roots nonprofit organization with about 300 members. We are dedicated to the protection of the unique environmental qualities of the Upper Peninsula of Michigan. Our members tend to enjoy nature's quiet splendor while participating in such activities as hiking, canoeing, bird watching, and nature photography. Many of our members use or would like to use the Basins in question for the pursuit of such activities.

The Basins are currently in a relatively natural condition suitable for the enjoyment by our members. In general the intense development provided for in your draft SMPs would severely degrade the natural conditions of the Basins making them poorly suited for the enjoyment by our members. This intense level of development is inconsistent with the provisions and intent of the operating licenses from the Federal Energy Regulatory Commission.

**Response:** *There is no "intense development" proposed for project lands. The non-project uses of the projects lands include paths, trails, recreation enhancements, and dock structures. These uses are consistent with achieving an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters.*

Our objections to the draft SMPs center on the proposed non-project use of project lands, specifically the proposed granting of easements to property owners of lands bordering the project lands for the following purposes: The installation of private boat docks up to 150 feet in length. The installation of power lines to power lights on the docks with up to 300 watts per dock and to power boat lifts on the docks. The clearing of view corridors up to 200 feet in width through the projects lands so that bordering property owners will be able to view the basins from their homes. The construction of four-foot wide pathways through the project lands from private homes to their private docks on the basins.

**Response:** *Opinion Noted. The uses UPPCO proposes to regulate through the SMPs are consistent with the types of use and occupancy of project lands and waters that FERC allows. That being said, UPPCO has considered the comments received from agencies and the public. In response to some of those comments, UPPCO has revised the SMPs to (1) eliminate the installation of underground electric wiring, (2) the installation of permanent dock lighting, and (3) the installation of boat lifts. Any trails constructed pursuant to the implementation of the SMPs will be available for public use, enhancing the hiking activity UPEC purports to enjoy. With respect to the three SMPs that allow the creation of view enhancement areas, the*

*restrictions on the view enhancement areas have been modified to reduce the width to a maximum of 40 feet and to limit the length to a maximum of 200 feet. Additionally, the view enhancement areas have very stringent limitations on tree cutting and trimming.*

While the Division of Hydropower Administration and Compliance (DHAC) Compliance Handbook – Standard Land Use Article, appendix H Article (a), and the corresponding provisions in each project license, provides for non-project use of project lands, it states that “The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project.” (emphasis provided) The proposed easements would neither protect nor enhance the scenic, recreational or environmental values of the project basins.

**Response:** *UPPCO disagrees with this comment and has gone to considerable effort to produce SMPs that protect and enhance the project’s natural resources and the project’s primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources. In addition, UPPCO has dramatically increased Conservation Lands at all of the Projects, prohibited commercial tree harvesting (enhancing old growth forest characteristics) and will be prohibiting vehicular access on many existing logging roads*

#### Boat Dock Installation:

Perhaps the largest negative impact would occur as a result of the proposed dock installations. A total of 837 individual lighted boat slips with electric powered boat lifts would be allowed in the six basins. It is unclear whether the electric power could be used by dock owners for other purposes such as powering boat lights or electronic music sound systems. The negative impact on the scenic values of the basins by the docks alone would be severe. When 837 boats are added to the docks, the affect would be devastating on the scenic and environmental values of the basins.

**Response:** *In response to comments from agencies and the public, UPPCO has revised the SMPs to, among other items, eliminate the installation of underground electric wiring, the installation of permanent dock lighting, and the installation of boat lifts. Additionally, the final SMPs have been revised to reflect a reduction in the total number of proposed boat slips*

While UPPCO does not have direct authority over boating activity on the basins, the type of boat launch facility and the presence of the docks would have a major impact on the intensity of boat use and the type and size of watercraft present. Larger boats and pontoon boats may be impractical to use on the basin because of the difficulty in launching and retrieving the boats in the basins. But if the boats can be launched and left in the basins at the private boat docks for the entire boating season, then the use of these larger boats will be feasible and their use is likely to occur. The presence of these larger boats at the boat docks and also their use on the basins would negatively affect the scenic and environmental values of the basins, and they would also negatively affect the recreational values of our members and of many other people who enjoy the natural beauty of the basins.

**Response:** *The commenter states that "Larger boats and pontoon boats may be impractical to use on the basin because of the difficulty in launching and retrieving the boats in the basins." If that is the case, and since the type of landing is usually dictated by the conditions on the reservoir, then the use of the larger boats would also be impractical. Enhancements that are currently planned for the boat ramps were developed through consultation with the agencies prior to the development of the SMPs based upon the need due to the conditions that exist on the reservoir.*

*As a result of agency and public comments the size and proposed number of dock facilities for private use have been reduced. However, UPPCO has included public recreational dock facilities in the SMPs that are suitable for public access at each Project.*

*UPPCO does have authority over the types of boats that can be stored at the boat slips. Therefore, as an additional restriction to prohibit the improper boating on a reservoir that cannot accommodate it, at Cataract ( a relatively small reservoir), UPPCO has modified the SMP to restrict the horse power of the engines on boats stored overnight at the boat slips to a maximum of 25 hp for conventional boats and a maximum of 50 hp for pontoon boats.*

The presence of larger numbers of larger sized boats could also be expected to negatively impact water quality. The following excerpt is from the *Environmental Assessment for The Use of Motorized Watercraft In the Sylvania Wilderness, Ottawa national Forest, United States* Department of Agriculture, July 1994 (emphasis provided):

The degree to which engines emit pollutants depends on a variety of factors including the size of the engine, the age of the engine, the type of engine (two-cycle, four-cycle, jet, etc.) type of fuel used and/or the degree to which the engine is tuned and maintained.

Once discharged into the water, petroleum hydrocarbons may remain suspended in the water column, concentrate at the surface, or settle to the bottom. Many hydrocarbon compounds may not persist for very long because of their immiscibility, volatility, or biodegradability. However, while petroleum may disappear rapidly from the water column, the portion that reaches the sediment may persist for several years. Lead compounds from gasoline additives tend to sink to the bottom sediments (*Pollution Impacts from Recreational Boating: A Bibliography and Summary Review*, Milliken and Lee, 1990). Effect of pollutants from marine engines include odor, and off taste in fish and toxic effects on aquatic organisms.

Power boats also have been shown to impact bottom sediments of lakes and to increase turbidity. In 1974 the Environmental Protection Agency (EPA) published a study analyzing the impacts of boating activity on turbidity in shallow lakes (defined as those with a maximum depth of 30 feet). They examined the impact of varying horsepower engines on lakes of varying depths. The study concluded that even a 10 horsepower engine could produce substantial stirring of bottom sediments at depths up to 15 feet and the engines with greater horsepower

can do even more damage than smaller engines. (*Power boats on shallow lakes: A brief summary of literature and experience on Lake Monegan (NY)*, Wright and Wagner, 1991)

Thus if the installation of the large number of docks called for in the draft SMPs results in increased boating activity and increased boat size, the negative environmental impact would be substantial.

**Response:** *Opinion noted, however, we fail to understand the correlation UPEC attempts to draw between the installation of the proposed docks and increases in the size of boats over those that currently use the UPPCO impoundments. With respect to boat size, UPPCO has considered the potential aesthetic impacts of larger boats and in response has modified the Cataract SMP to limit motor size to 25 horsepower for conventional boats or pontoon boats with a maximum horsepower of 50. UPPCO has also considered the environmental impact of boats and determined that there could be moderate long-term impacts to water quality through the introduction of additional nutrient supplies in the form of uncombusted fuel as a result of the operation and maintenance of additional boats on the impoundments. An increase in recreational boating on the impoundments is anticipated to occur, with or without implementation of the proposed SMPs*

The environmental studies commissioned by UPPCO provided a detailed description of the basins, the associated project lands, and the flora and fauna present. However the impact of the proposed development on the flora and fauna was not covered or was not covered adequately. Many of the wildlife species noted in the studies, such as eagles, loons, and great blue herons, are known to be sensitive to human activity. The increase in boating activity, and the disturbance of shoreline habitat with 150 ft. long boat docks would neither protect nor enhance environmental conditions for wildlife in and around the basins.

**Response:** *The resource reports ("environmental studies") were never intended to be NEPA environmental assessments. Rather, as clearly indicated in the scopes of work that were reviewed and commented on by the resource agencies, the objectives of the studies were to gather readily available existing information, to conduct field work to verify the presence and condition of existing data, to document existing conditions, and to assimilate and provide the collected information in the form of GIS-generated resource inventory maps and reports.*

*The impacts to project lands as a result of public trails, paths, limited view enhancement areas, and/or the placement of docks along the shore were each assessed in Section 9 of each respective SMP. Additionally, shoreline activity has been reduced in many areas by consolidation of overnight activities to more suitable areas.*

View Corridors.

While the View Corridors up to 200 feet in width are intended to provide a view of the basins from the homes on lands bordering the project lands, such clearing would also make the homes visible from the basins. Our members and others who are visiting the basins to view the natural beauty of the landscape would be negatively impacted when the view of nature is replaced by the view of private homes. Wildlife using the habitat provided by project lands would be negatively

impacted by the clearing of the view corridors and by the increase human activity in the view corridors. The presence of the view corridors would neither protect nor enhance the scenic, recreational and environmental values of the project as required by the project licenses and by the Standard I and Use Article.

While conveyance of easements is provided for in the license agreements for certain purposes under certain circumstances, the clearing of View Corridors is not among the listed possible purpose for easements.

**Response:** *The maximum proposed width of view enhancement areas along the shoreline is 40 feet. UPPCO has very specific design criteria for the installation of limited view enhancement areas on project lands. These criteria were developed to protect the integrity of the resources surrounding the project. In response to comments from agencies and the public, several of the SMPs have been revised to reduce or eliminate the number of view enhancement areas. The view enhancement areas are included in the SMP in order for FERC to review them and provide a decision on whether or not to allow them.*

#### **Pedestrian Paths and Wooden Walkways:**

The four-foot width of the pedestrian paths would seem to be wider than necessary for foot travel. The presence of wooden stairs and walkways could negatively affect the scenic values of the project. The provision allowing the storage of docks, boat lifts, and ramps on the pedestrian paths within in project lands would negatively affect scenic values of the project.

**Response:** *Wooden stairs and walkways will be used only in limited instances where extreme topography or sensitive ecological areas warrant. In response to comments from agencies and the public, UPPCO has revised the SMPs; docks may only be stored within areas so designated for dock storage. No storage of docks is permitted on paths or trails.*

#### **Predetermined Outcome of Planning Process:**

UPPCO seems to have used the elaborate planning process to try to justify the intense level of development that they had already decided upon before the planning process began.

**Response:** *UPPCO used the planning process to get feedback from regulatory bodies, state, local, and federal governmental agencies, non-governmental organizations, and the general public. Based on feedback, UPPCO has made significant revisions to the SMPs.*

As a member of the eastern basin Focus Group I attended every eastern basin focus group meeting. At each meeting I made most of the points that are listed above. The members of the eastern basin focus group were largely opposed to the intense development of the basins. Yet the opinions of the focus group members seemed have been largely ignored in the draft SMPs in favor of the desires of Naterra Land Company managers, the purchaser of the bordering non-project lands.

**Response:** *Based on comments UPPCO received, the eastern focus group members were largely in support of the proposed draft SMPs.*



I understand the Wisconsin Public Service's (UPPCO's parent company) 2005 report to stock holders indicates that UPPCO sold a portion of its real estate holdings for 5.9 million dollars, with the possibility of realizing up to an additional 3.0 million dollars as certain contingencies are resolved. If in fact those contingencies include the project land easements being granted to Naterra's lot purchasers, then it may be clear why UPPCO is favoring Naterra over the needs and desires of the people. It appears that it will be very difficult for UPPCO managers to objective in the development of Shoreline Management Plans and that close scrutiny by The Federal Energy Regulatory Commission is in order.

**Response:** *Opinion noted. The final SMPS have been revised significantly to address public and agency input.*

Conclusion:

The rapid development of the shorelines of lakes and streams for home construction in the Upper Peninsula of Michigan is causing wildlife habitat, and scenic and recreational opportunities to disappear. The licensing agreements for the hydroelectric projects were designed to protect the shorelines from development for wildlife habitat and for the scenic and recreational enjoyment by the public. UPPCO is trying to cash in on the demand for shoreline lots by developing the project basins in conflict with the spirit and letter of the licensing agreements. The process used to develop the SMPs is flawed because of UPPCO manager's bias for development. An Environmental Assessment by a neutral party is needed in order to determine the affect of the proposed development on the scenic, recreational, and other environmental values of the project. We believe that the proposed easements through project lands should not be allowed.

**Response:** *As previously stated, UPPCO designed the SMPs to achieve an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters. UPPCO is not developing shoreline lots, in fact, UPPCO has proposed no home construction within the Project boundary. Each SMP includes a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP. UPPCO utilized numerous FERC orders approving SMPs and non-project use of project lands as the template to describe the environmental impacts. Additionally, UPPCO designed the SMPs to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the projects' licenses and FERC mandated management and monitoring plans.*

Sincerely,  
William Malmsten, Vice president, Upper Peninsula Environmental Coalition

Cc: FERC

**Att. 71: David L. Sladky**

5-18-07

Janet Wolfe  
Communications Manager  
UPPCO  
PO Box 130  
Houghton, MI 49931-0130

Dear Janet Wolfe,

It is essential to respect our natural home and reserve places for quiet rejuvenation. The long term monetary value of keeping nature natural will far exceed any short term profit or convenience. Docks and shoreline development will only encourage disrespect and disharmony, lowering property value. For real value, for the benefit of future generations, for our home, for your legacy, keep nature natural.

Thank you for your time.

David L. Sladky

**Response:** *Opinion noted.*

**Att. 72: John Coupe**

May 18, 2007

Upper Peninsula Power Company  
PO Box 130  
Houghton, MI 49931

Attention: Janet Wolfe

Dear Ms Wolfe:

As an Ontonagon County landowner, I have closely followed the proposed sale of 7300 acres of land (of which approximately 1360 acres have been sold) by UPPCO at six UP flowages. Each of these flowages has unique characteristics which I do not believe were adequately addressed in the Draft Shoreline Management Plans.

It is difficult to place a value on aesthetic beauty. But I best describe it as something you realize you had once it is gone. As an avid canoeist, I enjoy the serenity of an undisturbed shoreline, drifting along observing eagles, listening to loons or watching a turtle lay her eggs in the sand. I

am also a hunter of deer, grouse and other small game. I have many concerns with land fragmentation and the loss wildlife habitat.

**Response:** *UPPCO attempted to minimize visual impacts by locating docks in areas that were sheltered from prominent viewing locations around the impoundments, maintaining low profile docks and utilizing natural (muted) colors that do not stand out against the background landscape. Additionally, UPPCO has prohibited the installation of boat lifts, and associated lighting.*

According to the license agreements (and associated plans), UPPCO agreed to protect a minimum 200 foot buffer around these impoundments. However, the draft SMP outlines many planned uses, including private lighted individual and cluster docks. None of these will protect the shoreline and definitely do not enhance the reasons I value these flowages. It also causes me to question the integrity of UPPCO's promise with the FERC and general public.

UPPCO has not established how these uses are consistent with the terms of their license. The draft SMP fails to address the cumulative effects any planned development will have on the project lands and waters. Until these plans are made known and the effects evaluated, these proposed uses for the project lands should not be approved.

**Response.** *The non-project uses of the projects lands include paths, trails, recreation enhancements, and dock structures. These uses are consistent with achieving an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters.*

If UPPCO is truly serious about protecting these fragile environments, they should uphold the license by establishing permanent protection of the shoreline and prohibit private docks.

Sincerely,

John Coupe  
3527 136<sup>th</sup> Ave  
Hamilton, MI 49419

Copy to: FERC Projects 1864, 2402, 2506, 10856, 10854

**Response:** *Opinions noted.*

**Att. 73: Dan Haskell**

May 18, 2007

Janet Wolfe  
Communications Manager  
UPPCO  
PO Box 130  
Houghton, MI 49931-0130

Dear Ms. Wolf,

I oppose the recent plans for housing development for the Bonds Falls project (project no.1864) and other similar projects in the U.P. The following report is reason enough for UPPCO to reconsider the planned development in this region. This report is based on scientific research conducted in northern Wisconsin in recent years.

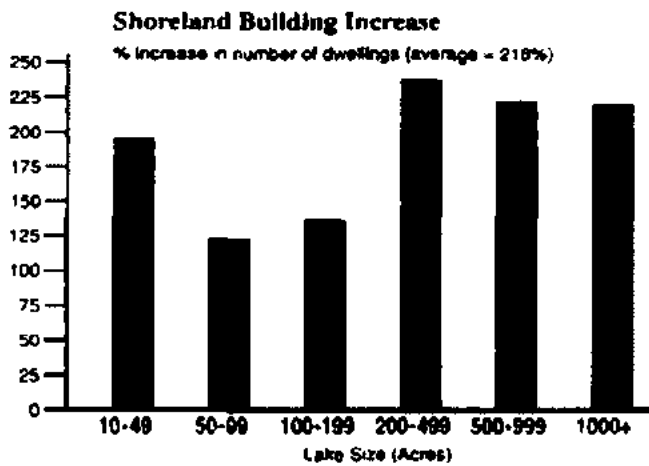
**Summary:**

Shoreland housing development has increased dramatically in recent decades in northern Wisconsin. Riparian and littoral habitat has been altered due to this housing development. The riparian and littoral areas of inland lakes are critical habitat for a variety of wildlife. In addition, lakes shorelines are transition zones between upland and aquatic ecosystems and support an exceptionally high biodiversity. Recent studies conducted on high- and low-development lakes in Vilas County, Wisconsin have documented negative changes in the floral and fauna on these lake shorelines.

**Introduction:**

Northern Wisconsin contains the third largest density of freshwater glacial lakes in the world, with more than 12,400 lakes scattered across the northern third of the state (WDNR 1996). Vacationers have been attracted to this region for decades, and more recently, increasing numbers of people are replacing small seasonal cottages with large year-round houses along the lakeshore. Housing development has increased an average of 216% since 1965 on lakes greater than 10 ha in northern Wisconsin (Figure 1. WDNR 1996). Gonzalez-Abraham et al. (2006) suggest that lakes are the single most important factor determining both housing density and spatial pattern of human development. Their results revealed that 41% of human development occurred within 100 m of lakeshores in northern Wisconsin since the 1930s, and most buildings were located within 50 m of each other, suggesting people will tolerate living close to one another on lakes (Gonzalez- Abraham et al. 2006). This concentration of housing development along lakeshores has negative consequences for wildlife habitat and the structure of riparian bird communities (Racey and Euler 1983, Lindsay et al. 2002, Woodford and Meyer 2003).

**Figure 1. Percentage of shoreline development in northern Wisconsin since 1965 (WDNR 1996).**



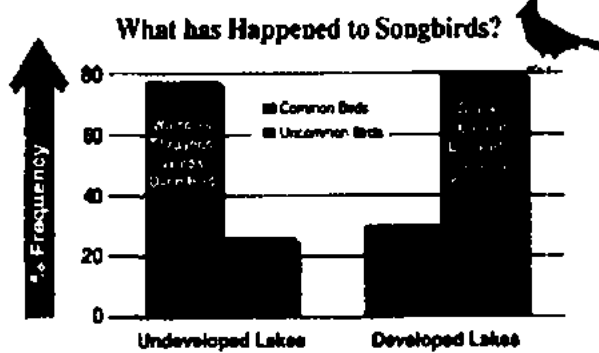
Removal of vegetation structure along shorelines on high-development lakes is a common practice. Elias and Meyer (2003) reported a significant reduction of shrub layer and coarse woody debris on high-development compared to low-development lakes. In addition, non-native and less common species have spread and proliferated with human development and habitat fragmentation throughout northern Wisconsin. Altered species composition can change the physical characteristics of lakes and the biological processes that occur within them.

#### **Background:**

Riparian and littoral zones of lakes provide critical habitat for a variety of wildlife, protect water quality, and have aesthetic appeal when the shoreline is naturally vegetated (Engel and Pederson 1998). Recent studies have documented the negative effects on the floral and fauna due to lakeshore alteration caused by housing development. For example, species composition of breeding birds differ significantly (Lindsay et al. 2002), abundance of green frogs is substantially lower (Woodford and Meyer 2003), and vegetation structure and composition in riparian and littoral zones differ profoundly (Elias and Meyer 2003) between high- and low- residential development lakes. In addition, certain piscivorous birds such as the common loon (*Clavina immer*), and osprey (*Pandion haliaetus*) avoid lakes with a high level of human disturbance (Newbrey et al. 2005). Furthermore, high-development lake shorelines have less coarse woody habitat (Christensen *et al.* 1996, Elias and Meyer 2003, Marburg et al. 2006) and aquatic vegetation (Radomski and Goeman 2001) which reduces habitat for waterfowl and fish (Moyle and Hotchkiss 1945, Jennings et al. 1999) and decreases fish growth rates and population size (Schindler et al. 2000, Sass 2004).

Lindsay *et al.* (2002) paired high-development lakes with low-development lakes of similar physical characteristics and performed point-counts around the perimeter of each lake to assess bird community structure. Their results revealed several species and some resource guilds were more abundant in one lake development type or the other (Figure 2). Ground nesting and insectivorous birds were more common on low development lakes. On high-development lakes seed-eating and deciduous-tree nesting birds were more abundant (Lindsay *et al.* 2002).

Figure 2. Comparison of avian species composition (Lindsey *et al.* 2002)



Several species that are listed in U.S. Fish & Wildlife Service Region 3 Resource Conservation Priorities (2002) appear to be more abundant around low-development lakes (Table 1, Robertson and Flood 1980, Clarke *et al.* 1983, Moors 1993, Meyer *et al.* 1997). The regional and local decline of these species has potential ecological effects. For example, the loss of insectivorous birds can have a profound effect on woody plant production (Sipura 1999) and may relate to the substantial increase in defoliating insects in Wisconsin (WDNR 2004).

Table 1. USFWS Region 3 species of conservation priority, which are associated with low-development lakes in northern Wisconsin (Meyer *et al.* 1997, Lindsey *et al.* 2002, Newbrey *et al.* 2005, Meyer 2006).

Common Names	Species	Foraging	Diet	Nesting
Black-throated Blue Warbler	<i>Vermivora pinus</i>	Hover glean	Insect	Shrub
Canada Warbler	<i>Wilsonia canadensis</i>	Hover glean	Insect	Ground
Common Loon	<i>Gavia immer</i>	Surface diver	Fish	Ground
Connecticut Warbler	<i>Oporornis agilis</i>	Ground Glean	Insect	Shrub
Golden-winged Warbler	<i>Vermivora chrysoptera</i>	Foliage Glean	Insect	Ground
Osprey	<i>Pandion haliaetus</i>	High dive	Fish	Deciduous

Recognition of the indirect influence of riparian residential development has spurred investigations aimed at understanding which features of development are responsible for altering breeding bird abundance. In a study of residential development along forested shorelines on Lake Superior, Manarolla and Flaspohler (in review) found that development-related changes in vegetation were responsible for dramatic differences in breeding density for at least seven bird species. Greater vegetation diversity and structure increase bird abundance and species richness (Niemi and Hanowski 1984, Probst *et al.* 1992, Patterson and Best 1996). The reduction of sub-canopy and shrub layer coverage on high-development lakes (Clarke *et al.* 1983, Elias and Meyer 2003) plus increased predation and human disturbance likely contributes to the scarcity of ground nesting and insectivorous birds on high-development lakes in northern Wisconsin (Schmidt and Whelan 1998) (Table 2).

Table 2: Bird species which may be negatively influenced by shoreline development (Meyer *et al.* 1997, Lindsey *et al.* 2002).

Common Names	Species	Foraging	Diet	Nesting
American Redstart	<i>Setophaga ruticilla</i>	Ground glean	Insect	Deciduous
Black-and-White Warbler	<i>Mniotilta varia</i>	Bark glean	Insect	Ground
Black-throated Blue Warbler	<i>Vermivora pinus</i>	Hover glean	Insect	Shrub
Black-throated Green Warbler	<i>Dendroica virens</i>	Foliage glean	Insect	Conifer
Blackburnian Warbler	<i>Dendroica fusca</i>	Foliage glean	Insect	Conifer
Brown Creeper	<i>Certhia americana</i>	Bark glean	Insect	Conifer
Canada Warbler	<i>Wilsonia canadensis</i>	Hover glean	Insect	Ground
Chestnut-sided Warbler	<i>Dendroica pensylvanica</i>	Foliage glean	Insect	Shrub
Common Loon	<i>Gavia immer</i>	Surface diver	Fish	Ground
Common Yellowthroat	<i>Geothlypis trichas</i>	Foliage glean	Insect	Shrub
Connecticut Warbler	<i>Oporornis agilis</i>	Ground glean	Insect	Shrub
Golden-winged Warbler	<i>Vermivora chrysoptera</i>	Foliage Glean	Insect	Ground
Hermit Thrush	<i>Catharus guttatus</i>	Ground glean	Insect	Ground
Magnolia Warbler	<i>Dendroica magnolia</i>	Hover glean	Insect	Conifer
Mallard	<i>Anas platyrhynchos</i>	Dabbles	Seeds	Ground
Nashville Warbler	<i>Vermivora ruficapilla</i>	Foliage glean	Insect	Ground
Northern Parula	<i>Parula americana</i>	Foliage glean	Insect	Deciduous
Ovenbird	<i>Seturus aurocapillus</i>	Ground glean	Insect	Ground
Pileated Woodpecker	<i>Dryocopus pileatus</i>	Bark glean	Insect	Snag
Pine Warbler	<i>Dendroica pinus</i>	Bark glean	Insect	Conifer
Rose-breasted Grosbeak	<i>Pheucticus ludovicianus</i>	Foliage glean	Insect	Deciduous
Scarlet Tanager	<i>Piranga olivacea</i>	Hover glean	Insect	Deciduous
Solitary Vireo	<i>Vireo Solitarius</i>	Foliage glean	Insect	Conifer
Song Sparrow	<i>Melospiza melodia</i>	Ground glean	Insect	Ground

Swainson's Thrush	<i>Catharus ustulatus</i>	Ground glean	Insect	Shrub
Tennessee Warbler	<i>Vermivora peregrina</i>	Foliage glean	Insect	Ground
Tree Swallow	<i>Tachycineta bicolor</i>	Aerial forage	Insect	Snag
Veery	<i>Catharus fuscescens</i>	Ground glean	Insect	Ground
Warbling Vireo	<i>Vireo gilvus</i>	Foliage glean	Insect	Deciduous
White-throated Sparrow	<i>Zonotrichia albicollis</i>	Ground glean	Insect	Ground
Winter Wren	<i>Troglodytes troglodytes</i>	Ground glean	Insect	Snag
Yellow Warbler	<i>Dendroica petechia</i>	Foliage glean	Insect	Shrub
Yellow bellied Sapsucker	<i>Sphyrapicus varius</i>	Bark glean	Insect	Deciduous
Yellow-rumped Warbler	<i>Dendroica Coronata</i>	Foliage glean	Insect	Conifer
Yellow-throated Vireo	<i>Vireo flavifrons</i>	Foliage glean	Insect	Deciduous

Several studies throughout North America have revealed an increased in mesopredators (e.g. raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*) and feral cats (*Felis catus*)) with increasing housing development and habitat fragmentation

(Oehler and Litvaitis 1996, Crooks and Soule 1999, Crooks 2002). Mesopredators are medium-sized predators, adult males weighing between one and 15 kilograms (Buskirk 1999). In addition, housing development displaces higher trophic level carnivores, which may control mesopredator populations or result in a "mesopredator release" (Crooks and Soule 1999, Schmidt 2003). A mesopredator release involves the release or increased density of a consumer species usually following a decline in predation by species at higher trophic levels. The increased abundance of mesopredators is experienced by species in the next trophic lower level in the form of higher predation rates, which in turn can cause prey populations to decline and can potentially alter community structure (Terborgh et al. 1999). Certain mesopredators adapt well to human development (Hecht and Nickerson 1999, Prange et al. 2004) and prey heavily on nests of wetland and songbirds, waterfowl and raptors (Johnson et al. 1989) Sargent, A.B. et al. 1993, Schmidt 2003, McCann et al 2005). Certain avian species that nest on or near lake shores are currently in decline, which may be do to an increase in mesopredators (Lindsey *et al* 2002). Furthermore, historically these mesopredators were not common to northern Wisconsin (Jackson 1961) and recently have emerged in abundance with human development.

Among the mesopredators, the raccoon has probably benefited the most due to high human development on lakeshores. Raccoons have the most diverse diets of any carnivore, which has been important in their success in human dominated landscapes (Gehrt 2004). Raccoons readily exploit human garbage, pet food, and other food resources related to human activities (Gehrt 2004, Prange *et al.* 2004). The raccoons climbing ability allows it to access garbage cans, dumpsters, and bird feeders, which are common in residential developments. This artificial food resource has had positive affects on raccoon demographics throughout its range (Hoffman and Gottschang 1977, Prange *et al.* 2003, 2004). Raccoons often lose 50% of their body mass over winter (Mech *et al.* 1968), but in suburban areas raccoons may lose only 10% (Riley *et al.* 1998). It is well documented that raccoon densities are higher in urban and suburban areas (Hoffman and Gottschang 1977, Broadfoot *et al.* 2001, Prange *et al.* 2003). Prange *et al.* (2004) reported raccoons having relatively small home ranges in urban and suburban environments in contrast to rural areas, which was due to the abundance of artificial food resources. In addition, seasonal changes home ranges size were least pronounced at the suburban area (Prange *et al.* 2004). Furthermore, Hoffman and Gottschang (1977) documented that raccoons use linear travel routes going to and from feeding areas and home range averaged 5.5 times as long as wide, suggesting that high population densities and abundant food resources are the cause of small linear home ranges.

### Conclusion:

It is well documented the effects housing development has on lake ecosystems. Therefore, I urge UPPCO to reconsider the current development plan on Bond Falls and other projects in the region. I believe that UPPCO and private citizens has a responsibility to protect and preserve our natural resources. The time has come when corporate entities, developers, government agencies and private citizens' work together to manage our dwindling resources.

Sincerely,  
 Dan Haskell  
 P.O. Box 589



South Range, MI 49963

**Response:** *Opinions noted. UPPCO is not proposing any development within the FERC project boundary. Therefore, the literature cited is not applicable to this proposal.*

**Att. 74: Nancy Warren, Spokesperson – Upper Peninsula Public Access Coalition**

The Upper Peninsula Public Access Coalition  
P O Box 102  
Ewen, MI 49925  
www.uppac.com

May 19, 2007

Upper Peninsula Power Company  
PO Box 130  
Houghton, MI 49931  
Attention: Janet Wolfe

Re: Draft SMP Comments P-1864, P-2402, P-10856, P-10854, P-2506

Dear Ms Wolfe:

Upper Peninsula Public Access Coalition (UPPAC) is a "coalition" of concerned citizens. The common thread that connects us all is our enjoyment and concern for the lakes, streams, rivers and woodlands in Michigan's Upper Peninsula.

To date, we have garnered support from over 1760 individuals who believe FERC should force UPPCO to follow the Section 5.4 Handbook process and order the preparation of a new environmental impact study. We believe FERC should not approve any conveyances until a new EIS has been prepared and shared with the public because the planned sale and residential development of adjacent UPPCO lands were never disclosed to the public during the relicensing process.

We believe it is critical that all citizens be allowed the opportunity to participate at each level of the process involving the planned uses for the public waterways and project lands surrounding the flowages at Bond, Victoria, Prickett, AuTrain, Cataract and Boney Falls.

As stakeholders, UPPAC fought for a Shoreline Management Plan. We believed one of the most basic goals for development of the plan was for the licensee (UPPCO) to bring together all interested parties for open discussion. UPPCO made public promises they would, but like many other promises, UPPCO fell terribly short.

Public Meetings

Throughout this process, UPPCO/WPS held several "informational" meetings. However, their many "rules" limited public participation:

Questions had to be in writing

Only questions related to the topic being discussed that night could be submitted

No other topics could be raised

Anything written had to be in the form of a question (no comments were allowed)

No matter how poorly the question was "answered", no follow-up questions were permitted

Due to the limited time UPPCO permitted, very few questions were read. For those that were, UPPCO representatives often either partially answered it or missed the point altogether and failed to answer it at all. One just has to look at attachments 69 and 70 of the Draft SMP to read the number of questions/comments submitted either at the meetings or via email (some of the questions/comments are even cut off) that still have not been addressed by UPPCO.

**Response:** *UPPCO has answered all the questions that were submitted at meetings, via email, letter correspondence or on the UPPCO website. (see consultation records for respective projects).*

The AuTrain public meeting was held 4/3/07 despite a prediction of 8-11 inches of snow and dense fog along the Lake Superior Shoreline keeping many people away.

The meeting for Boney and Cataract was held 4/4/07, even though more than a foot of snow fell during the day, with winds gusting to 50 mph, closing many roads and canceling flights. Here is an excerpt from the 4/5/07 edition of the Mining Journal:

*MARQUETTE -- High wind gusts and record snowfall made the idea of spring in April a far-off dream for Marquette County residents.*

*The National Weather Service in Negaunee Township measured 24 inches of snowfall Wednesday, breaking a 1974 record of 12 inches. Meteorologist Jason Ahumbaugh also said the snowfall total was the second largest 24-hour total in the office's history...*

We were shocked that UPPCO held these two public meetings despite record breaking severe weather. If UPPCO was truly sincere about receiving public input, they would have rescheduled each of them.

**Response:** *UPPCO staff was present at the meeting and did travel to attend the meeting. Other individuals were able to attend the meeting. UPPCO did not receive any requests (other than this one) for a replacement meeting. Therefore, none was scheduled.*

#### Focus Groups

UPPCO has now presented their Shoreline Management Plan stating it is the result of "consultation" and "collaboration" with local government officials, agencies, and members of the public, including two specially formed focus groups. Consultation implies there were discussions among focus group members and with UPPCO. Attempts by any member to initiate a discussion were not tolerated. UPPCO never sought consensus and it was made clear that the

focus groups would not have any role establishing goals or objectives for the Shoreline Management Plan.

Similar to the public meetings, the Focus Groups also had a strict set of rules that restricted participation:

- At the beginning of each meeting, we were permitted to make a statement.
- No one was allowed to ask any questions during the UPPCO presentations.
- Following the presentations, each member was given a chance to make another statement or ask a question. On rare occasions, and if time allowed, we were permitted a follow-up question.
- The public was not allowed to observe the meeting
- Reporters were not allowed
- We were not permitted to record any meeting.

At the 5-2-06 public "informational" meeting, the public was told that the Shoreline Management Plan "will address concerns." Yet, focus group members were never allowed to discuss many of our concerns. Those that were mentioned, such as the impact unburned fuel/fuel spills would have on water quality, were not addressed. The numerous comments regarding private docks and the negative impact they will have on shoreline aesthetics and the traditional uses of the flowages were ignored and some of these comments were not recorded in UPPCO's official minutes. UPPCO even led local government representatives to believe their concerns over private docks didn't matter (unless they supported them) because the final decision rested with The FERC.

UPPAC suggested separate focus groups be formed for each of the flowages or least each project, to accommodate more public participation; UPPCO refused. We asked for a team of "technical advisors" such as biologists, wildlife managers and other experts who could be available at meetings to answer our questions; UPPCO refused. It became clear from the beginning that UPPCO was merely going through the motions but not the process by hosting focus group meetings. UPPCO was just not interested in any input that opposed their plans to convey private uses of the project lands to Naterra.

Following complaints about the composition and rules for the focus group, UPPCO issued a letter to focus group members dated 6/13-06 that stated "If you continue to attend, we consider it an acceptance of the meeting structure and guidelines in this letter."  
In other words, take it or leave it.

Section 6.7 of the SMP indicates the majority of the planned enhancements are the result of "consultation" with members of the focus groups. This is simply not true. Most were "planted" ideas, initiated by UPPCO representatives at the focus group meetings. UPPCO representatives even met privately with selective focus group members at other times and locations to barter support for their "enhancements" and private conveyances to Naterra.

**Response:** *All consultation with reference to the SMPs was conducted to gain input and ideas from those groups and agencies interested in the projects and the SMP planning process.*

*Consensus on the complicated issues presented in the SMPs was not a goal of the focus group meetings. However, many of the ideas that were expressed during agency consultation and focus group meetings have been incorporated into the SMPs.*

UPPAC requested a meeting devoted solely to the licenses and hoped for a meaningful dialogue. UPPAC anticipated a meaningful dialogue. We were hopeful that the proposed uses for the project lands would be compared to each license and associated plans. Instead, at the 6/22/06 meeting the focus group was told this was not our role.

UPPCO representatives read selective sections from the license while we were expected to sit and listen. Those of us who read the license were frustrated because we were not allowed to question UPPCO or discuss the numerous inconsistencies. For example:

#### Prickett

A key element of the Prickett license, Article 414, was never even mentioned at the focus group meetings and was not posted to the UPPCO website until UPPAC brought it to their attention in late March 2007. We believe this was a critical omission as this article refers to the shoreline buffer zone as an area where there should be a "no tree cutting zone." Although UPPCO substituted the wording in the Land Use and Recreation Management Plan to read "no timber harvesting", no one anticipated a major development or that "enhanced" view corridors would be planned. When asked, UPPCO responded that they interpreted "no timber harvesting" to mean, "no commercial harvesting". The intent of Article 414 is clear – no tree cutting; the license would have stated no commercial harvesting had that been the intent.

UPPCO is proposing the removal of brush (including young saplings) less than 2 inches in diameter for pedestrian paths and viewing corridors. It is our position that viewing corridors should not be permitted without a license amendment request with impacts addressed as part of an environmental impact study.

**Response:** *Opinions noted. The Article 414 Comprehensive Land Management Plan states that the plan is a forest management plan that includes a variety of timber management techniques for project lands, including aesthetic and harvest management techniques. The objectives of the plan are to manage timber resources in the buffer zone using aesthetic management practices. UPPCO proposes to amend this plan (through implementation of the SMP) to prohibit all timber harvesting practices, including aesthetic management techniques, on all project lands.*

#### Au Train

Appendix D (Private Land Use Guidelines, applying to corporate lands) of the Comprehensive Land Management Plan, approved May 1999, states "4.2 Unauthorized Private uses of Hydro Lands – private docks and shoreline use."

The intent of the approved CLMP is clear, there will be no private docks or use of the shoreline at AuTrain.

**Response:** *We agree the CLMP is clear. There will be no "unauthorized" docks or use of the project shoreline. This will not change with implementation of the SMP.*

Cataract

The Comprehensive Land Management Plan and Wildlife Plan, approved by the FERC in 1999, called for aesthetic management "aesthetic management is applied to areas that have unique qualities that require more restricted management policies or prescriptions. Such areas include but are not limited to 200 ft shoreline buffer zones...due to the importance of the areas within the 200 ft of shoreline, any management within the 200 ft zone will be conducted only after consultation with MDNR."

Among the objectives stated was "UPPCO's goal is to work in partnership with nature through proper management of the project lands for optimum enhancement." However, Goal 6 of the draft SMP is to "minimize impacts to the aesthetic quality of the shoreline."

The approved Wildlife Plan also states "the relatively undisturbed condition of the property within the project boundary provides for excellent wildlife habitat... land management activities will incorporate wildlife management techniques to enhance wildlife populations." However, the draft SMP, Goal 8, states to "avoid or minimize impacts to sensitive wildlife species "

The approved Wildlife Plan further states "Shoreline buffer zones and environmentally sensitive areas are treated different from other areas. All shoreline buffer zones are 200 ft wide and aesthetic management techniques are the only management activities allowed in these areas. Active vegetative management can take place within this 200 ft zone if approved by all parties (licensee, USFWS, MDNR)". The draft SMP allows for "enhanced" view areas. This is a direct contradiction to the management concepts described in the license's wildlife management plan. UPPCO/WPS wants us and the FERC to believe their draft SMP is consistent with the approved license and plans. They are not even close.

**Response:** *The CLMP for the Cataract Project currently allows aesthetic management timber harvesting within the 200 foot buffer zone around the impoundment. Through implementation of the SMP, UPPCO proposes to prohibit all timber harvesting practices, including aesthetic management techniques, on all project lands.*

Bond

The recreation plan submitted by UPPCO and approved by FERC stated "In order to obtain old growth characteristics along the shorelines of project reservoirs as described in the Buffer Zone Plan, to enhance loon nesting potential as described in the Wildlife and Land Management Plan, and to provide more isolated habitat for waterfowl and threatened species, UPPCO proposes to develop two designated camp site locations near the boat launches of the Bond Falls Reservoir, one on the east side and one on the west side of the reservoir."

UPPCO lead us to believe elimination of the dispersed campsites was for environmental reasons, while in reality, they were planning for an extensive land sale to a major developer. It was not until after UPPCO obtained FERC approval for consolidation of the dispersed campgrounds (November 2005) that they unveiled their plans to sell their non-project lands to Naterra and to convey easements for trails and private piers and docks to the new lot owners.

Now that the true reasons have been revealed, the entire campground configuration should be re-evaluated as part of this process.

The Recreation Plan approved by FERC allowed for:

- A canoe take out area with directional signage to Agate Falls for canoe launching opportunities
- A hard surface boat launch at Barclay boat landing
- A skid pier at Barclay boat landing
- Improvements to parking at Barclay Boat landing

Now, UPPCO states these enhancements for the public will be done WITHIN TWO YEARS OF PLACEMENT OF THE FIRST DOCK for Naterra's lot owners or 2010.

This is just another ploy by UPPCO to mislead the public: If you support the private docks; UPPCO will "give" you a canoe take-out while in reality, these recreational enhancements are required by the license.

Nearly all the other public recreational enhancements need approval by FERC or consultation with agencies but UPPCO says they are now contingent upon the first private dock being placed on the project lands. These additional enhancements are merely a manipulative tool by UPPCO, hoping to buy support for Naterra's private docks on the project lands.

**Response:** *In response to comments, UPPCO has revised the SMPs. For the purposes of developing a schedule for recreational development UPPCO has concentrated on providing amenities to existing formal public recreation facilities in order to upgrade and make the existing facilities more user friendly and accessible.*

Individuals who did not read the license were given the impression that the proposed planned non-project uses of the project lands were in compliance.

#### General Comments Regarding the Draft Shoreline Management Plan

We believe UPPCO has a responsibility to ensure that shoreline development activities that occur within project boundaries are consistent with the intent of the FERC approved license(s) and associated management plans.

According to FERC guidelines, a Shoreline Management Plan (SMP) is a comprehensive plan to manage the multiple resources and uses of the project shorelines in a manner that is consistent with license requirements and project purposes, and addresses the needs of the public. However, UPPCO has stated the purpose of the SMP is "managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources." UPPCO fails to mention compliance with the license requirements.

**Response:** *UPPCO has gone to considerable effort to produce SMPs that protect and enhance the project's natural resources and the project's primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral*

*effects on those natural resources. The non-project uses of the projects lands addressed in the SMPs include paths, trails, recreation enhancements, and dock structures. These uses are consistent with achieving an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters.*

*Development of public and private docks, recreational development, access roads, and telephone, gas, electric utility distribution lines, etc. were anticipated during the relicensing process. To address the additional uses, FERC included a Standard Land Use article in each license. UPPCO designed each of the SMPs to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the project's license. In some instances, approval of the SMP as it is proposed will constitute amendments to the existing approved plans. Compliance with license requirements is clearly addressed in Section 6 of each respective SMP.*

The Upper Peninsula Public Access Coalition opposes all private individual and cluster docks at all six Upper Peninsula flowages. We do not support "pedestrian paths" or "enhanced" view corridors. We believe these uses to be in conflict with the current licenses and/or management plans for the flowages. The project shorelines are undeveloped with little human disturbance. The proposed uses will degrade not only the aesthetic values of the shorelines, but will also negatively impact wildlife and waterfowl habitat.

**Response:** *See response above*

The Draft SMP suggests that our communities can expect an economic windfall if the proposed private docks are allowed. The analysis presented by UPPCO is purely speculative without information about the cost of road maintenance, police, fire and other services. UPPAC is once again asking that UPPCO and Naterra fund an independent cost of service study to support (or challenge) their claims.

UPPCO would like the public to believe thorough environmental assessments were done. They even claimed at the 5/02/06 public meeting that they consider "its environmental study to be equivalent in scope to an Environmental Impact Statement." We disagree. The assessments done by EPRO were merely an overview of some of the reservoir features. They were poorly prepared, omitted vital information and provided only a snapshot of the natural features of these flowages. When EPRO was asked at a public meeting why the assessments did not address the impacts UPPCO's proposals will have on the project lands, they responded they were not hired to address the impacts.

**Response:** *It is important to note that UPPCO did not rely solely on the environmental reports in isolation of the volumes of recreation and environmental information that were collected during relicensing and information obtained through consultation with the general public and resource agencies.*

UPPCO now states "Until such time when development proposals at each of the impoundments are put forth, it is not possible to assess the potential resource impacts on project lands and

waters.” We believe all of UPPCO’s and Naterra’s development plans should first be put forth. Then, the potential resource impacts on the project lands and waters can be made known through a FERC ordered Environmental Impact Study followed by a public comment period.

**Response:** *Each SMP includes a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP. UPPCO utilized numerous FERC orders approving SMPs and non-project use of project lands as the template for the environmental impact analysis.*

Given the way focus group and public “informational” meetings were conducted, it is no surprise that the Draft SMP reflects everything UPPCO had originally proposed in their NELA of December 2005 with one exception. UPPCO did remove the ban on public fishing within 100 ft of Naterra’s private docks. In virtually every other way, this Draft SMP is a direct reflection of UPPCO’s original goal: private boat slips for every Naterra lot owner.

**Response:** *In response to comments from agencies and the public, UPPCO has revised the SMPs to, among other items, eliminate the installation of underground electric wiring, the installation of permanent dock lighting, and the installation of boat lifts. Additionally, the final SMPs have been revised to reflect a reduction in the total number of proposed boat slips.*

#### Summary

The Draft Shoreline Management Plans are inadequate. None address the cumulative impacts the proposed sale and development of the non-project lands will have on the project lands including water quality, wildlife habitat and the aesthetic value. The proposed non-project uses of the project lands are not consistent with the license and will significantly diminish public access and recreational use of the shoreline and project waters.

We will continue to urge the Federal Energy Regulatory Commission to order a new comprehensive Environmental Impact Study for each of the flowages, along with public hearings followed by a public comment period, prior to the approval of any conveyances on the project lands.

**Response:** *We believe the non-project uses are consistent with achieving an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters.*

Thank you for the opportunity to comment.

Sincerely,  
(filed electronically with UPPCO)  
Nancy Warren, Spokesperson  
Upper Peninsula Public Access Coalition  
Copy to FERC



**Att. 75: Karen Tischler**

19 May 2007

Janet Wolfe  
Communications Manager  
Upper Peninsula Power Company  
P.O. Box 130  
Houghton, MI 49931-0130

RE: Comments on the draft Shoreline Management Plans for proposed developments on Bond Falls, Victoria, Prickett, AuTrain, Boney Falls, and Cataract Reservoirs (FERC hydroelectric projects numbers P-1864, P-2402, P-10956, P-2506, P-10854)

Dear Ms. Wolfe:

Thank you for the opportunity to comment on the draft Shoreline Management Plans (SMPs) for each of the FERC-regulated reservoirs listed above.

The Standard Land Use Article (Article 420) of the current license agreements between FERC and UPPCO allows UPPCO to grant permission for some uses of project lands on the reservoirs, but only for those uses that are *"consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project."* I will make reference to this statement in these comments to demonstrate how I believe the actions proposed in the SMPs for these reservoirs are inconsistent with the spirit of the FERC license agreements with UPPCO.

We in the western Upper Peninsula are fortunate to have abundant public lands which protect natural resources and provide recreational opportunities. UPPCO's own commissioned "Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources" (prepared by E PRO in 2006) states that *"A defining character of UP lakes in general is their remote, undeveloped feel"* However, with the increasing value of waterfront property, fewer and fewer shorelines retain this wild feel – even with the boundaries of large tracts of public land, such as the Ottawa National Forest, much of the lakeshore is privately-owned and developed. Since the function of these project lands has primarily been to generate electricity, and secondarily to fulfill the associated federal licensing requirements, these reservoirs have in fact been maintained as wild landscapes with limited development, providing ample habitat for wildlife and recreational opportunities.

As evidence of the high value the public places on natural and scenic landscapes, I refer to the same UPPCO-commissioned report cited above, in which surveyed users ranked the "natural character" of these reservoirs as the most important factor why people choose to use them for recreation. Furthermore, users also valued remote lakes, undeveloped shorelines, ample wildlife viewing opportunities, seeing few people and a dark night sky more than they valued developed campgrounds. Why then is UPPCO proposing additional campground development and new public docks as concessions for developing the lake for private interests, and couching these

concessions as "recreational enhancements" when your own survey suggests these are not among the things that the public would identify as "enhancements" on these particular reservoirs?

I believe the developments UPPCO proposes in the SMPs to remove stumps (on Prickett) and add viewing areas, access paths, docks, and dock lighting in FERC-regulated project areas will degrade rather than protect and enhance the scenic, recreational and environmental values local (such as myself) and tourist users seek at these sites.

I am particularly concerned that proposed actions in the SMP for Prickett Lake will have a deleterious impact on both the environmental and aesthetic integrity of this site. The E/PRO report states that the topography surrounding Prickett Lake "is noteworthy for the Upper Peninsula" and that "this quality is enhanced by long-distance views from the southeastern subunits of Silver Mountain" (Section 5-9). Adding the proposed trails (and stairs), docks and lights would significantly alter the association, appearance and feel of this landscape. Additionally, as I understand, the area just below the Prickett Dam supports one of, and perhaps the only remaining, free-ranging, self-sustaining population of Lake Sturgeon in the Great Lakes Basin. While the SMP does concede that stump removal and dock additions would likely cause temporary increases in turbidity, the plan in no way evaluates the potential long-term impacts of these activities on downstream Lake Sturgeon. I believe any actions which could jeopardize the health of this population would violate the FERC license agreement.

I urge UPPCO to not only uphold the terms of existing licensing agreements with FERC on these hydroelectric project reservoirs, but also to be a leader in land stewardship by considering partnerships with conservation buyers on non-project lands rather than development interests.

I recommend Prickett Lake as an ideal place to practice the type of land stewardship. Protecting this area would be a great contribution to the communities you serve in the Upper Peninsula and would go far in improving your commitment to being an environmentally sensitive company.

I hope you take these comments and concerns into consideration.

Sincerely,

Karen Tischler  
49820 Limerick Rd.  
Hancock, MI 49930

Cc: FERC, Congressman Bart Stupak, Senator Carl Levin, Senator Debbie Stabenow

**Response:** *In response to comments from agencies and the public, UPPCO has revised the SMPs to, among other items, eliminate the installation of underground electric wiring, the installation of permanent dock lighting, and the installation of boat lifts. Additionally, the final SMPs have been revised to reflect a reduction in the total number of proposed boat slips. At the Prickett project, plans to remove stumps have also been eliminated.*

**Att. 76: Joseph Kaplan, Director – Common Coast Research & Conservation**

20 May 2007

Janet Wolfe  
Communications Manager  
Upper Peninsula Power Company  
P.O. Box 130  
Houghton, MI 49931-0130

Subject: Comments on draft Shoreline Management Plans for Upper Peninsula hydroelectric projects: Bond Falls (P-1864); Priekett (P-2402); Au Train (P-10856); Escanaba River Dam #4, Boney Falls (P-2506); Cataract (P-10854).

Dear Ms. Wolfe,

We appreciate the opportunity to provide comments on the draft Shoreline Management Plans (SMPs) for six reservoirs on which private development and increased public use is being proposed by the Upper Peninsula Power Company (UPPCO). Our organization is dedicated to the study and protection of common loons in Michigan. Our biologists work closely with public agencies, corporations, and the private sector in an effort to increase appreciation and understanding of this State-listed species. Our experience with loons spans over fifteen years, and includes the monitoring of loon populations throughout the Upper Peninsula, including the Ottawa National Forest, Isle Royale National Park and Sency National Wildlife Refuge. The following comments will address aspects of the SMPs that have the potential to influence the protection and enhancement of loons and loon habitat on these reservoirs.

We are concerned that the draft SMPs do not convey a commitment from UPPCO to protect and enhance conditions for nesting loons on these hydroelectric project lands, and we identify this as the major deficiency of the plans. We believe that the *Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources* on the reservoirs (completed by E-PRO in 2006) provided insufficient information for determining the appropriate number and placement of docks and trails so as to minimize impacts to breeding loons and their nesting habitat. Furthermore, we believe that the current management of the project lands that allows for widely fluctuating water levels to be the primary limiting factor for the use of UPPCO reservoirs by breeding loons.

**Response:** *Operational impacts of the projects were addressed and resolved with the issuance of new FERC licenses for the respective projects. Operational aspects are not germane to this proceeding. During the Au Train licensing process, the decision was made that the minimum flow requirements (which cause the reservoir to lower) was more beneficial to the environment than the fluctuation of the water levels. However, UPPCO agrees to install and maintain one loon nesting platform at the Au Train Reservoir in a location determined through consultation with the appropriate resource agencies.*

Our own cursory surveys of the Bond Falls, Au Train and Prickett reservoirs suggest that while the number of current loon territories on these reservoirs appears to be much lower than that suggested by their overall size and their frequency of nesting habitat, there is considerable potential to support additional loon territories by enhancing this habitat to accommodate the particular characteristics of the impoundments. Specifically, the use of floating nest platforms for loons can be very effective on reservoirs that experience large fluctuations in water levels (e.g., Bond Falls and Au Train). We have successfully used this conservation tool in the western Upper Peninsula to mitigate the loss of nesting habitat due to shoreline development, and nesting platforms are in widespread use on FERC-regulated projects in New England (Evers 2004, p. 39). UPPCO is obligated by Article 414 of the relicensing agreement on the Bond Falls Project to place two such platforms on Bond Falls and one on the Victoria Reservoir. However, at this time no platforms have been placed, nor has UPPCO assessed the number of loon territories that could feasibly be supported on each of these reservoirs with the use of these platforms. Until a complete assessment of both existing and potential loon territories is undertaken, including an evaluation of the most appropriate locations in which to position potential platforms, we believe that any proposed alterations to the impoundment shorelines or islands that will increase or concentrate recreational use of the reservoirs is premature. We believe that the impacts of such proposed actions on current and future loon use cannot yet be accurately evaluated.

**Response:** *UPPCO is not now, nor should it be, required to assess the number of loon territories that could be supported by the project impoundments. Through the recently completed licensing process, the Commission determined the need to install and monitor the success of nesting structures. UPPCO will report on the success of the nesting structures after complete agreement has been reached with the agencies on where to locate the structures. The resource agencies have initially recommended two locations for nesting platforms at Bond Falls Reservoir. UPPCO is in the process of finalizing the locations of these platforms and will begin installation shortly.*

We are additionally concerned that UPPCO's proposal to develop docks and trails adds a new layer of complexity for maintaining these water resources for loon production. Development and recreation do not necessarily preclude successful loon occupancy and productivity, but it is widely established that nesting loons can be disturbed by human recreation. Understanding the impacts of this recreation on loon productivity is complex, and requires carefully designed site-specific strategies to assure successful protection (Evers 2004). For example, loons nesting on artificial platforms in high recreation areas often need a buffer area (created by floating buoys) to reduce disturbance. In our experience, it takes a considerable commitment to maintain and monitor artificial nest platforms and buoys to assure successful use by loons, and an additional investment of time and energy to educate the public regarding the appropriate buffer distances required by these nesting pairs.

In light of these considerations, we offer the following recommendations to protect and enhance loon populations on FERC-regulated Upper Peninsula impoundments. We urge UPPCO to incorporate these recommendations in the final SMPs.

- 1) We recommend that UPPCO establish goals for the number of loon pairs to be maintained on each reservoir through the development of a long-term artificial nest platform and monitoring

program. Our conservative estimates for the number of potential loon territories on the Bond Falls, Prickett and AuTrain reservoirs are:

- a. Bond Falls: potential for 5-7 loon territories (at least three currently exist)
- b. Prickett: potential for 2 loon territories (no known territories currently exist)
- c. AuTrain: potential for 5-6 loon territories (no known territories currently exist)

These estimates are based upon surveys of the current conditions on these waterbodies, and upon loon territorial densities on a) nearby reservoirs that experience more natural water level fluctuations (i.e. Cisco Chain), and b) large natural lakes systems at Isle Royale National Park. We believe that these estimates represent reasonable goals that can be achieved within a five year time frame, and we strongly encourage UPPCO to adopt them within them within the final SMPs.

- 2) We recommend that UPPCO develop an artificial loon nesting platform and monitoring program before taking measures to increase recreational opportunities on shoreline and island areas through construction of docks, trails, and new campsites. Prior establishment of an artificial loon nesting platform and monitoring program would allow for a less disruptive approach to the subsequent placement of any development infrastructure.
- 3) We recommend that the SMPs incorporate all potential loon nesting habitat (including islands, wetlands and areas surrounding nest platform sites) into Conservation Areas, especially on reservoirs with maximum likelihood of supporting natural loon nesting sites (i.e., those that are managed in a "run-of-river" mode and experience limited water level fluctuations). Specifically, on the Prickett Impoundment we recommend that all shoreline to the east of the islands at the south end of the lake be designated as a Conservation Area rather than an Access Pathway Area.
- 4) As there is little evidence (published or anecdotal) that the proposed no-wake zones outlined in the SMP will be effective in protecting nesting loons, we recommend removal of no-wake zones from the final SMPs if they were included for the benefit of loons.
- 5) We recommend UPPCO evaluate the potential impact of proposed increases in recreational use on nesting loons and modify the Development and Recreational Enhancement Proposals of the SMPs accordingly.

We hope you find these comments useful. We offer our expertise to you as UPPCO considers measures to protect and enhance loon usage of its Upper Peninsula reservoirs.

Sincerely,

Joseph Kaplan  
Director, Common Coast Research & Conservation

Cc: FERC, USEFS, USFS, MDNR

Literature cited: Evers, D.C. 2004. Status assessment and conservation plan for the Common Loon (*Gavia immer*) in North America. U.S. Fish and Wildlife Service, Hadley, MA.

**Response:** *UPPCO has taken loon habitat in consideration during the development of the SMPs and the SMP classifications, including where recreational enhancements would and would not be located. Numerous areas around the respective impoundments were eliminated for consideration. This approach to classifying resources is consistent with the direction provided by Christie Deloria (USFWS). During an agency meeting, Christie indicated that not all potential loon habitat would need to be protected, even though loon habitat is considered "sensitive."*

*In general, literature has shown that increased human pressure may effect loon nesting, however, it has been documented that some individual loons can acclimate to human activity over time, and can nest successfully under moderate levels of human pressure (McIntyre and Barr, 1997, Heimberger et.al., 1983). The non-project use of project lands will not be immediate and is anticipated to occur over a period of ten to fifteen years. Increased human pressure may also come from a general increase in recreation use of the impoundments. All potential habitats need not be protected especially where no nesting pairs of loons currently exist. The focus should be on actually used territories. On impoundments that do not currently have nesting populations, an adequate amount of prime nesting areas will be protected for future use. The SMPs analyzed the environmental impacts associated with proposed non-project use of project lands and concluded that implementation of the SMP is not expected to have an impact on state or federally-listed threatened or endangered species.*

*The SMPs will be an enforceable document that will assure new threats from unanticipated uses at the time of licensing are adequately identified, evaluated, and addressed. Therefore, since current plans do not restrict these uses, the plans do not need to be modified.*

**Att. 77: Nicole Pollack**

3649 Bayou  
West Bloomfield, MI 48323

20 May 2007

Janet Wolfe  
Communications Manager  
Upper Peninsula Power Company  
P.O. Box 130  
Houghton, MI 49931-0130

RE: Comments on draft Shoreline Management Plans for Upper Peninsula hydroelectric projects: Bond Falls (P-1864); Prickett (P-2402); Au Train (P-10856); Escanaba River Dam #4, Boney Falls (P-2506); Cataract (P-10854)

Dear Ms. Wolfe,

Thank you for the opportunity to provide public comment on Upper Peninsula Power Company's (UPPCO) Shoreline Management Plans. UPPCO, a subsidiary of Integrys Energy Group, Inc. (formally WPS Resources Corporation) contends they chose Naterra Land (formally Taylor Investment Corporation and Four Season's Reality) to develop land surrounding U.P. reservoirs because Naterra Land has a "tradition and commitment for quality projects that are harmonious with the surrounding environment." Unfortunately, Wisconsin circuit court system (<http://wcca.wicourts.gov>) and the U.S. Army Corps of Engineers records indicate this may not be the case, as Naterra Land is well represented in the files of both (see information below). In addition, there are several instances where Naterra Land has sued local planning commissions and/or conservation districts when these authorities have moved to control the scope of Naterra's development. It concerns me that several of the reservoir projects are in rural areas that may have no protective zoning measures in place thus making them vulnerable to unscrupulous developers (i.e. Houghton County's portion of Prickett, FERC No. 2402). Though UPPCO may view commentary on Naterra Land beyond the limited scope of the Shoreline Management Plans I believe it is important for UPPCO to clarify or defend Naterra's "track record" in regard to potential past violations such as those provided below. UPPCO is on record promoting Naterra Land's reputation as a contentious developer. I believe it is critical to evaluate past problems of UPPCO's development partner so that the character of the reservoirs in question is not negatively impacted by UPPCO's proposed plans to provide private docks on FERC regulated flowages. What contingencies does UPPCO currently have in place with Naterra Land regarding the development of docks on UPPCO flowages?

I would like to know why UPPCO contends Naterra is "the best of the best" when it comes to developers and, specifically, what US Army Corp of Engineers cases represent violations of navigable waters. Furthermore, can UPPCO provide any other Federal or State agency records concerning violations of protective statues by Naterra Land or its aliases (e.g. the Environmental Protection Agency or the State of Minnesota)? What measures can be put in place to avoid the kind of misunderstandings that lead to lawsuits between any potential developer and local planning agencies?

Finally, UPPCO has sought the support of local governments and school districts to support their proposed Shoreline Management Plans on the premise that such development will lead to more tax money for schools and munic palities. Can UPPCO provide any evidence, such as a Cost of Services Analysis, that can support the assumption that docks and trails will produce much need tax revenue for these rural communities? It seems that any increase in tax revenue will most certainly be offset by the cost of developing and maintaining infrastructure in such remote and rural locations. I recommend UPPCO provide a summary in the SMP's of what measures it has taken to gain the support of local units of governments and what information was provided to these decision making entities that was not shared at the planned public meetings to discuss the SMP.

UPPCO's proposed actions as outlined in the SMPs have been the focus of a lot of concern by the public, organizations, and resource agencies. I do not agree with UPPCO's approach of separating project and non-project uses as it tries to seek approval for "improvements" that are necessary for large-scale residential development around these impoundments. Changing the use of these areas from predominately forestry to that of residential should not be taken lightly and I

strongly advocate that UPPCO deals with these concerns in a more thoughtful manner through the development of an Environmental Assessment under National Environmental Policy Act requirements for ache of UPPCO's FERC-licensed facilities.

I appreciate your consideration of my concerns regarding UPPCO's proposed Shoreline Management Plans.

Sincerely,

Nicole Pollack

(attachments -- see Bond SMP Consult Record update 9-28-07)

**Response:** *With public and agency input, UPPCO has gone to considerable effort to produce SMPs that protect and enhance the project's natural resources and the project's primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources. Through implementation of the SMPs, UPPCO proposes to dramatically increase Conservation Lands at all of the Projects, prohibit commercial tree harvesting and prohibit vehicular access on many existing logging roads. Additionally, UPPCO has included a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP in each of the respective SMPs.*

**Att. 78: Barbara Morrison, County Clerk – Menominee County Board of Commissioners**

MENOMINEE COUNTY BOARD OF COMMISSIONERS

WHEREAS, Upper Peninsula Power Company has unveiled Shoreline Management Plans for project lands at its five hydroelectric projects (Numbers: 2402, 10854, 2506, 10856 and 1864) located in numerous U.P counties; and,

WHEREAS, the Shoreline Management Plans include proposals to protect the environment and enhance recreational opportunities for citizens at the flowages, as well as ensure that proposed activities are consistent with the purposes of protecting and enhancing the scenic, recreational and other environmental values of each project; and,

WHEREAS, these draft plans were developed based on more than 14 months of input from state and federal resource agencies, local government officials and the public. In addition, UPPCO conducted focus groups consisting of various stakeholders, including representatives from county and township boards, hunting and fishing interests, outdoor enthusiasts and economic development. UPPCO also conducted public meetings and invited comments from citizens concerning the plans. The company also engaged the public over many months regarding plans to sell UPPCO private property at the five hydroelectric projects; and,



WHEREAS, the flowages these Plans address will continue to be open for people to use alongside numerous acres of U.P. acres already available to citizens; including state and federal lands such as the Hiawatha and Ottawa National Forests that are off limits to development; and,

WHEREAS, it is projected that any development resulting from the sale of property at the projects will over time assist the U.P. construction trades industry, help local businesses and grow local tax bases to the benefit of schools, as well as township and county units of government and the programs and services they provide to citizens. Broadening the tax base in U.P. counties is welcomed, recognizing the state's current financial status and economic outlook; now therefore,

BE IT RESOLVED, that the Menominee County Board of Commissioners hereby approves this resolution of support for the Plans with the expectation that UPPCO will continue working with local units of government and other stakeholders as the process continues and directs that a copy of this document be transmitted to U.P. Power Company and appropriate state and federal officials.

Moved by Com. Berger .seconded by Com. Furmanski  
Ayes: 5      Nays: 0      Absent: None

I, Barbara Morrison, the duly qualified and acting Clerk of Menominee County, do hereby certify that the following resolution was adopted at a meeting of the county Board of Commissioners held on May 21<sup>st</sup>, 2007, is on file, has not been amended, altered or revoked; and is in full force and effect.

**Response:** *Comments noted.*

**Att. 79: Agency Comments**

August 21, 2007

Shawn Puzen  
Upper Peninsula Power Company  
PO Box 19001  
Green Bay, WI 54307-9002

RE: Resource agency comments on draft Shoreline Management Plans (FERC Project Numbers 1864, 10854, 2506, 2402, and 10856)

Dear Mr. Puzen:

Please find enclosed combined comments from the Michigan Department of Natural Resources, U.S. Forest Service Hiawatha and Ottawa national Forests, National Park Service, U.S. Fish and

Wildlife Service, Michigan Hydro Relicensing Coalition and Keweenaw Bay Indian community (collectively referred to as "Resource Agencies") on the draft Shoreline Management Plans (SMPs) for Federal Energy Regulatory Commission (FERC) hydroelectric projects 1864, 10854, 2506, 2402, and 10856. These comments are provided by the Resource Agencies in consultation with Upper Peninsula Power Company (UPPCO) as part of the FERC Shoreline Management Planning process. The overarching goal of the agencies in this process is to assure that any non-project use of project lands does not compromise the integrity of the licenses in place. All Resource Agencies are not involved in every project; therefore, we are providing Table 1 (attached) to clarify agency involvement.

**Response:** *Comment Noted*

In summary, the SMPs identify various zones around each basin where different types of non-project and project uses would be allowed. Types of non-project use of project lands discussed in the SMPs include installation of trails, access pathways, basin view corridors, public and private boat docks, and other recreational enhancements. The classification areas presented in the SMPs were Project Operations, Conservation, Enhanced View, Pathway Access, and General Use/Formal Recreation. Project Operations areas include those lands that are necessary for electrical generation or transmission. According to the SMP, Conservation Areas were intended to be set aside to protect important natural resource features and would allow for development of trails. Some of the basins would also have enhanced view areas where brush and tree limbs could be removed to allow views from a residence to the water. Pathway Access areas allow installation of pathways (or paths) from non-project lands through project lands thereby facilitating access to docks. The installation of buried electrical lines for dock lighting is also proposed in the Pathway Access areas.

General Use/Formal Recreation Areas would allow dock placement, construction of paths and roads, cutting of enhanced view areas, and construction of recreational facilities. The SMPs suggest that increased public use of these basins is anticipated as a result of implementation of those non-project related activities.

**Response:** *Public use of these basins is expected to occur, with or without UPPCO's implementation of the SMPs. Regional growth over the next ten to fifteen years is expected to increase recreation use of the Bond Falls project due to the easy accessibility of project waters and the increasing inaccessibility of the National Forest Lands which is exhibited in the Ottawa National Forest 2006 Forest Plan Revision. The project license already requires improvements to project recreation facilities to address existing and future use. These improvements will inherently increase recreation use of the project.*

We appreciate the close communication between the Resource Agencies and UPPCO during the development of the SMPs. Much of this communication is evidenced in the SMPs Appendix A: Record of Agency and Public Collaboration, although several documents were not included which provide important information on the consultation process; these documents should be included in the final SMPs (see Appendix for missing documents). Some of the language in the SMPs, however, suggests that the documents were created in collaboration with the Resource Agencies. We believe this language overstates our involvement and participation in drafting the

SMPs. We clarify that the draft SMPs are solely the product of UPPCO and remind UPPCO that our involvement, communication, and comments do not imply endorsement.

**Response:** *Those applicable documents that were inadvertently omitted from the last draft have now been included in the record of consultation. Several of the documents being referenced were written prior to the consultation process to develop the SMPs and therefore, they have not been included. UPPCO has revised the SMPs to eliminate the use of the word "collaboration" and replaced it with "consultation". This accurately describes agency and public involvement during the development of the SMPs.*

We have identified several potential issues of concern with respect to the draft Shoreline Management Plans. These issues are discussed below under specific comments for FERC License and Plan Consistency, Environmental Studies and Shoreline Zones, Potential Impacts to Environmental Resources, and SMP Implementation. The following points summarize our detailed comments:

- Non-project related activities identified in the SMPs, such as trails, pathways, and docks, are not consistent with the FERC licenses or approved plans. New threats and resource impacts associated with these activities were not identified or mitigated in the original license or plans. New plans should be written concurrently with the SMPs to specifically address these new threats.

**Response:** *FERC licenses give licensees the authority to grant permission for certain types of use and occupancy of project lands and waters. UPPCO's development of its SMPs articulates and formalizes permissible activities and prohibitions on project lands and waters. The SMPs were designed to be consistent with, and in many instances to further, the goals and objectives of the project's license and approved plans. In some instances approval of the SMP will constitute amendments to the existing approved plans. UPPCO has identified those limited instances in each SMP. It is important to note that many of the amendments to the approved plans are the result of the SMPs providing for dramatically increased protection of project lands by increasing the amount of area for conservation (i.e. old growth forest objectives eliminating tree harvesting on all project lands) and restricting other uses beyond what is currently allowable through existing and approved project licenses and plans.*

- The Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources (Environmental Studies) conducted by E-PRO either lacked information on important aquatic and forest related resources or did not follow recommended agency protocol for collecting such data. This lack of reliable data makes it difficult to fully understand the impacts of various activities along the basins' shorelines. This requested information needs to be provided and UPPCO needs to clearly show how all environmental study data was utilized in developing appropriate shoreline zones

**Response:** *As explained in our response to agency comments on the scopes of work and in the response to the agency comments on the environmental reports, not all agency-suggested protocols were going to be utilized in their entirety. Specifically, substrate mapping and*

raptor calls. We believe our methods to identify and map various habitats within the impoundments are more than adequate to assure informed decision-making on non-project uses of project lands. UPPCO has revised the SMPs to include environmental study data that has been applied to a new series of maps in each Section 7.0 of the respective SMPs to show how this information was utilized in the development of the respective plans.

- Non-project related activities have the potential to impact fish, wildlife, recreation and aesthetic resources on each of the basins by direct habitat loss, fragmentation, and increased human disturbance. These impacts need to be analyzed and discussed in the SMPs.

**Response:** Each SMP includes a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP. UPPCO utilized numerous FERC orders approving SMPs and non-project use of project lands as the template for the environmental impact analysis.

- Monitoring and enforcement plans should be developed concurrently with the SMPs, with input from the Resource Agencies. Updates of the SMP should be completed every five years reflecting new information and changed conditions discovered through monitoring. These updates should be prepared with the agencies and re-filed for FERC approval.

**Response:** Each SMP includes a section that addresses UPPCO's plans for monitoring and enforcement. UPPCO is aware there may be a need to periodically review the SMPs and the associated permitting programs and has addressed this in each SMP. UPPCO disagrees that SMPs should be updated every five years, but rather, has proposed to meet with the resource agencies on an annual basis to discuss the effectiveness of the current restrictions and the progress of the implementation of the SMP.

### **FERC License and Plan Consistency**

The SMPs suggest that, outside of the Recreation and Land Use Plans, many of the management plans for each project do not need amendments. We have found multiple inconsistencies among the licenses, associated plans, and SMPs (Table 2, 3, 4, 5, and 6). We believe that most management plans need to be rewritten to incorporate the new threats associated with SMP implementation.

The existing plans were written to help protect or enhance a variety of natural resources associated with each project. When these plans were written, significant resource threats were almost solely from forestry operations within the project boundaries. Development of project lands through trails, public and private docks, new recreational facilities, and enhanced view corridors, were not anticipated during the relicensing process. Therefore, the impacts associated with SMP implementation were not considered during development of the plans. As part of the SMP process and concurrent with SMP development, these management plans must be rewritten to help protect resources from these new threats.

**Response:** *Development of public and private docks, public and private marinas, recreational development, access roads, and telephone, gas, electric utility distribution lines, etc. were anticipated during the relicensing process. To address the additional uses, FERC included a Standard Land Use article in each license. UPPCO designed the SMPs to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the projects' licenses. In some instances, approval of the SMP as it is proposed will constitute amendments to the existing approved plans. These instances are clearly identified in Section 6 of each SMP. Through implementation of the SMPs, some minor amendments to existing approved management plans will be necessary. The changes are not necessary to address additional uses, but rather to clarify permissible uses and prohibitions.*

## **Shoreline Classifications Areas and Environmental Studies**

### *Conservation Area*

According to the SMPs, the Conservation Areas were intended to protect important natural resource features at each basin. With the limited information provided in the SMPs, however, we identified several examples where important resources were not protected or included in a Conservation Area. For example, at Au Train the entire area designated as a Wildlife Refuge by Michigan Department of Natural Resources (DNR) was not included in a Conservation Area. There are instances in all the basins where important resources such as wetlands, loon nesting habitat, areas of high aesthetic value, and bald eagle roosts were not included in a Conservation Area. Without being included in a Conservation Area, some of these resources are likely to be detrimentally impacted by the various proposed activities.

**Response:** *UPPCO agrees and has revised many of the SMPs to ensure sensitive areas are adequately protected. In limited instances, the resources were not deemed to be "sensitive areas" if that resource was prevalent across throughout the reservoir. Explanations of these limited instances are now included in the SMPs and can be seen on the new 7-series maps. This approach to classifying resources is consistent with the direction provided by Christie Deloria (USFWS). During an agency meeting, Christie indicated, for example, that not all potential loon habitat would need to be protected even though loon habitat is considered "sensitive".*

If Conservation Areas are being set aside for conservation purposes, it is inappropriate to incorporate trails into these zones. Vegetation removal and increased human use of these areas as a result of trail placement could impact sensitive species (e.g., loons, eagles, and osprey). Reducing human disturbance is noted as a key priority for protecting these species in many of the license's management plans (Table 2, 3, 4, 5, and 6). Conservation Areas should protect sensitive environmental resources and provide areas where these species could be expected to thrive. Although access to Conservation Areas should be allowed, it should not be encouraged through the development of trails.

**Response:** *State and Federal parks throughout the United States are considered "conservation areas" yet are interlaced with public hiking trails. UPPCO has designed its SMPs to protect and enhance the projects' natural resources while providing public recreational enhancements. As stated in the SMPs, UPPCO will consult with the agencies on the development of such public*

*trails and agrees that some portions of the public trail may not be constructed after detailed planning if trail construction and/or operation may result in significant resource impacts.*

Additionally, the Conservation Areas are fragmented by zones of higher development and higher human activity such as the Pathway Access and General Use/Recreation Zones. Michigan's Wildlife Action Plan (Eagle et al. 2005) identified habitat fragmentation, the division of contiguous landscapes into habitat patches, as the highest priority threat to wildlife habitat in Michigan. Numerous studies discuss the risk of habitat fragmentation, including Hawbaker et al. (2005) who describes the fragmentation of forested landscapes across Northern Wisconsin from 1937-1999. In a related study, Robinson et al. (1995) described the negative effects of forest fragmentation on nesting migratory birds, including several rare or declining species in our region. The fragmentation by trails and access pathways areas make these habitat areas less valuable and functional than a contiguous area. Even what may be deemed minimal disturbances (e.g. placement of a road or path) may be detrimental, especially to less mobile species such as reptiles and amphibians. To avoid fragmentation, it is recommended that large tracts of land are protected (Askins 1995). Fragmenting the Conservation Areas with public paths and trails also increases the risk of introducing non-native invasive species due to the heavy human use at many points around the shoreline. For these reasons, UPPCO should consider consolidating Conservation Areas and reducing fragmentation by consolidating or reducing the number of proposed new trails, Pathway Access, and General Use/Recreation Areas.

**Response:** *The agencies' characterization that the limited creation of paths and trails in Conservation Areas would result in habitat fragmentation and threats to wildlife is incorrect. We have reviewed the literature the agencies have cited. Hawbaker et. al. and Robinson et.al. refer to forest fragmentation from sources other than the paths and trails. Hawbaker et. al. 2006, refers to forest fragmentation created by the development of road networks. A quick review of the SMPs will reveal that no new road networks are being proposed within the respective project boundaries. Robinson et. al. 1995, refers to forest fragmentation resulting from agricultural, suburban, and grassland landscapes. Again, a review of the SMP will reveal that none of these activities are proposed within the project boundaries. While the SMPs do permit the development of paths and trails in some of the Conservation Areas, UPPCO has developed very stringent design criteria that will ensure there is no break in the forest canopy and no forest fragmentation as suggested by the agencies.*

*Additionally, while researching the agencies' references, we believe the Hawbaker et al. 2005 article is incorrectly referenced in the Literature Cited. In reviewing Mr. Hawbaker's resume, the article cited is believed to be as follows:*

*Hawbaker, T.J., V. C. Radeloff, C. E. Gonzalez-Abraham, R. B. Hammer, and M. K. Clayton. 2006. Changes in the road network, relationships with housing development, and the effects on landscape pattern in northern Wisconsin: 1937 to 1999. Ecological Applications 16: 1222-1237.*

#### Environmental Studies

As the basis for developing the SMPs, you completed Environmental Studies for each basin in summer 2006. We believe these studies were inadequate in several respects (see agency

comments on Study Scopes May 19, 2006 and Agency comments on E-PRO Reports, August 28, 2006). Many of the agency comments were summarily rejected or not adequately addressed. As such, the final Environmental Studies have many deficiencies which limit their usefulness as a tool for protecting important resources.

**Response:** *UPPCO responded to each agency comment on study scopes and environmental reports. These responses can be viewed in Appendix A, Record of Agency and Public Consultation, in each of the respective SMPs. In numerous instances, UPPCO agreed with agency comments and revised the environmental reports accordingly. Although the agencies state that their comments were not adequately addressed or summarily rejected, they have not included specifics of the deficiencies which limit the Environmental Studies use. The agencies have not provided new evidence to substantiate this claim.*

*Contrary to the agency assertion, the environmental reports do provide an adequate assessment of natural resources present at each of the reservoirs sufficient to characterize potential impacts as a result of proposed non-project uses of project lands. It is important to note that UPPCO did not rely solely on the environmental reports in isolation of the volumes of recreation and environmental information that were collected during relicensing and information obtained through consultation with the general public and resource agencies.*

With limited substrate data and no bathymetric data for the basins, we are unable to determine if proposed dock locations protect important fish spawning and waterfowl foraging areas. In fact, based on anecdotal information provided by tribal fishermen, several General Use Formal Recreation zones would include areas that are important to walleye spawning and may impact tribal spearing opportunities at Bond Falls and Prickett (A. McCammon Soltis, Great Lakes Indian Fish & Wildlife Commission, personal communication; G. Mensch, Keweenaw Bay Indian Community, personal communication). Without more detailed substrate and bathymetric information for each basin, it is impossible to identify the degree of impacts to fisheries and wildlife habitat which would likely result from proposed dock placement.

**Response:** *No in-water construction is permitted in the approved dock zones. The only activity would be the seasonal placement and removal of floating docks. It is anticipated that seasonal placement and removal of floating docks will not in any way, threaten fish spawning or waterfowl foraging areas. UPPCO believes that the substrate information that was collected at the impoundments supports the rationale for designating limited areas as approved dock zones. The draft SMPs have been modified to demonstrate that the walleye spawning areas will not be greatly impacted by non-project use. The anecdotal information provided above by the resource agencies is further addressed in response to the May 21, 2007 letter provided to UPPCO from the Great Lakes Indian Fish & Wildlife Commission. UPPCO's response to GLIFWC provides further explanation as to the reasons the docks proposed in these locations will not impact either spawning or fishing techniques.*

In our comments on the Scope of Services for the Environmental Studies, we requested that you identify high value or rare forest types within the project boundaries, including forest stands with old growth characteristics, stands that contain high-value mesic conifers (e.g., hemlock, white pine), and stands that contain red oak. In response, you stated that this information already

existed through recently conducted timber surveys. This information, however, was not provided as part of the Environmental Studies and we must assume it was not utilized in development of the draft SMPs. We believe this information is needed to fully evaluate the impacts of non-project uses on high-value habitat areas.

**Response:** *The draft SMPs were specifically designed to prohibit timber harvesting. In addition, the plans were modified to prohibit the cutting of fruit and mast bearing trees, along with eastern hemlock, as part of the preparation and on-going non-project uses of project lands. Approved and permittable activities identified in the SMPs were developed to be consistent with an overarching goal to manage forest resources for old growth characteristics. For this reason, it is not necessary to include this information in the SMPs.*

With the limited information provided in the SMPs, it is not clear how information from the Environmental Studies was used in the shoreline classification process. Aerial photographs, with resource information overlaid, should be provided in the SMPs. It would also be helpful to provide a map showing the location of the resources and the proposed shoreline classification areas.

**Response:** *UPPCO has revised the SMPs and a new series of Section 7 maps have been produced. The new maps overlay mapped environmental resources with SMP classifications.*

#### **Potential Impacts to Environmental Resources**

The SMPs suggest that environmental impacts would be neutral or potentially beneficial. The agencies suggest that there could be detrimental impacts to water quality, aquatic resources, wildlife, forest communities, recreation, and aesthetics as a result of implementing the SMPs. The impacts on these natural resources need to be articulated and analyzed within the SMPs. In many cases the FERC mandated management and monitoring plans for each project need to be re-written in order to address the new threats and impacts associated with the proposed non-project use of project lands.

**Response:** *Each SMP includes a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP. UPPCO utilized numerous FERC orders approving SMPs and non-project use of project lands as the template for the environmental impact analysis. Additionally, UPPCO designed the SMPs to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the projects' licenses and FERC-mandated management and monitoring plans. In some instances approval of the SMP as it is proposed will constitute amendments to the existing approved plans. These instances are clearly identified in Section 6 of the respective SMPs.*

*The SMPs will be a stand-alone, enforceable document that will assure new threats from unanticipated uses at the time of licensing are adequately identified, evaluated, and addressed. Therefore, since current plans do not restrict these uses, the plans do not need to be modified. All the current licenses have a standard land use article that allows these uses, provided they protect or enhance the scenic, recreational and other environmental values of the project. It is the purpose of the revised SMPs to assure that this happens. In addition further protections.*



*such as increased protective buffers, elimination of tree harvesting, restrictions to vegetation trimming for public access, the elimination of electrical power at docks, designated storage areas for private and public docks, and the elimination of boat lifts for project lands have been added to the SMPs to address these additional impacts.*

### Water Quality

Potential long-term effects on water quality could arise from increased boating-related sources attributable to use of the proposed public and private docks and new boat launch facilities. In shallow water, motor boats are capable of disturbing bottom sediments leading to increased turbidity (Engel and Pederson 1998; Mosish and Arthington 1998). Additionally, increased use of motor boats intensifies the risk of water pollution due to uncontrolled release of fuel, motor oil, and exhaust fumes (Mosish and Arthington 1998). It is possible for these pollutants to remain in the sediment for long periods at levels toxic to fish and invertebrates (Asplund 2000). Given the number of boats likely to use the docks and boat launches, there would be a greater potential for accidental fuel spills, oil discharges, and leaks from normal boating operations. These additional sources of pollution would incrementally contribute to cumulative water quality impacts. To avoid these impacts, recreational boating should be limited by avoiding or minimizing the installation of docks.

**Response:** *UPPCO has analyzed water quality impacts in the SMP (see Section 9 of the respective SMPs). The analysis determined that there could be moderate long-term impacts to water quality through the introduction of additional nutrient supplies in the form of uncombusted fuel as a result of the operation and maintenance of additional boats on the impoundment. The Engel and Pederson 1998 document refers to activities that are prohibited in the SMPs. The only relevant issue the reference raises is the placement of docks and the impacts of vegetation removal and woody debris removal for the placement of the docks. UPPCO's believes the reference is irrelevant given that the SMPs prohibit the removal of vegetation and woody debris.*

*The Mosish and Arthington 1998 reference was not included in the Literature Cited and therefore, we have been unable to review the applicability of the document.*

*The Asplund 2000 document states that boating is a highly valuable recreation activity and increased public access is encouraged in Wisconsin. The document also states that few impacts to sediments and aquatic vegetation have been noted at depths greater than 10 feet. It also states that no wake zones appear to adequately protect against shoreline erosion. Currently in the state of Michigan there is a no-wake zone within 200 feet of the shoreline.*

*The SMPs prohibit the storage of gasoline, oil, propane, or other combustible materials on project lands.*

The increased boating activity on these basins could create impacts to water quality that were not considered during the FERC relicensing process. Therefore, the water quality plan for each basin should be rewritten to include monitoring that would document parameters such as

uncombusted fuel that may increase in the project waters as a result of non-project use of project lands. The new plan should include a mitigation or control strategy if water quality is impaired.

**Response:** *Recreation use on the projects will increase gradually over the next ten to fifteen years, with or without the implementation of UPPCO's SMPs. The continued closure of accesses to National Forest Lands, which is exhibited in the Ottawa National Forest 2006 Forest Plan Revision, will also lead to an increase of recreation pressures of project waters. This increase of use will also occur at non-project lakes that provide boating access. None of the impoundments are currently required to be monitored and to UPPCO's knowledge no other area lakes that have or may experience an increase in recreation pressure have been requested to monitor water quality. UPPCO designed the SMPs to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the projects' licenses and FERC-mandated management and monitoring plans. In some instances, approval of the SMP as it is proposed will constitute amendments to the existing approved plans. These instances are clearly identified in Section 6 of each SMP.*

#### Invasive Species

As a result of non-project use of project lands, human activity on or adjacent to the basins is likely to increase. Increased vehicular, pedestrian, and boating use on project lands and waters brings a higher risk of movement and spread of non-native invasive species. The invasive species plans for each basin should be re-written to address the higher threat of introducing nuisance plants and animals. For example, Eurasian watermilfoil is typically introduced into water bodies via motorboats and increased boating on the basins will increase the potential for introduction and spread of this plant. It would, therefore, be prudent to do more frequent surveys for aquatic nuisance plants and animals than is currently required under the plans.

The risk of introducing terrestrial nuisance plants, including species not contemplated when the original plans were prepared, will also be greater as a result of non-project use of project lands. Therefore, surveys for both aquatic and terrestrial invasive plants and animals should be given more emphasis than it is in the current plans, including more frequent surveys and an expansion of the surveyed list of nuisance species. At a minimum, garlic mustard, rusty crayfish, zebra mussel, quagga mussel, spiny water flea, curly-leaf pondweed, Eurasian watermilfoil, and purple loosestrife should be identified in the plans as a priority for survey and control. The plans should also specify that UPPCO will consult with the agencies annually to determine if there are new invasive plants and animals of concern that need to be included in future surveys.

We support your recommendation to incorporate additional invasive species signage at each basin. This effort also should be added to each basin's nuisance species management plan along with the point that additional efforts may be necessary in the future to reduce the introduction and spread of non-native invasive species.

**Response:** *UPPCO has revised the SMP to monitor additional nuisance species identified by the agencies, provided they have effective, economical and reasonable control techniques demonstrated through the agency's own control programs.*

## Aquatic Resources

The placement of public and private docks, new boat launches, and subsequent increases in boating activities anticipated with the implementation of the draft SMPs could have adverse impacts to aquatic plants, fish, and other species. Lakeshore development is well known to negatively impact fish and plant species in northern temperate lakes (Jennings et al. 1999; Schindler et al. 2000; Hatzenbeler et al. 2004; Scheuerell and Schindler 2004). Development of the shoreline and increased recreational use of a water body will result in reduced availability of woody material, aquatic vegetation, and coarse substrate (Christensen et al. 1996; Radomski and Goeman 2001; Hatzenbeler et al. 2004; Jubar 2004). Many fish species exhibit strong preferences for coarse spawning substrate while others prefer wood structure or vegetation (e.g., bluegill, walleye, muskellunge, largemouth bass, and smallmouth bass). Shoreline alteration, through placement of docks and vegetation removal, may reduce suitable spawning habitat and result in greater substrate embeddedness through the introduction of fine materials (Jennings et al. 2003). The reduction in available substrate will impair the ability of fish to use nearshore habitat for spawning, foraging, and refuge during various life stages.

**Response:** *The only "lakeshore development" that is currently planned on Project lands are 4-foot-wide pedestrian trails leading to approved dock zones and a public path at each impoundment. Victoria impoundment is the exception, and no trails, approved dock zones, or public path is permitted. The above references (Jennings et al. 1999, Christensen et al. 1996, Radomski and Goeman 2001, Jennings et al. 2003) are related to residential shoreline development which is prohibited by the SMPs. Additionally, the SMPs prohibit the removal of vegetation or coarse woody debris during the placement of docks. The dock locations were chosen to avoid areas of coarse substrate and existing riparian vegetation to decrease the impact of the docks on the aquatic habitat in the impoundment. Some riparian substrates and vegetation types that are prevalent throughout an impoundment, not considered sensitive or that would not be impacted by the seasonal placement of docks have been utilized as dock zones (Noted on Map 7).*

Corresponding with an increase in lakeshore development, several studies found a decrease in aquatic vegetation (Radomski and Goeman 2001; Jennings et al. 2003; Hatzenbeler et al. 2004; Jubar 2004). These decreases in vegetation may be attributed to increased recreational use, manual removal, or shading by docks. For example, Ostendorp et al. (1995) found that emergent plants decreased with increased wave action associated with recreational use of lakes. Radomski and Goeman (2001) found that lakeshore development in Minnesota contributed up to 28% reduction in emergent aquatic vegetation. In a related concern, it has also been found that the loss of native plants encourages the establishment of invasive species such as Eurasian watermilfoil and curly-leaf pondweed (Engel and Pederson 1998).

**Response:** *Proposed dock placement would impact less than one percent (0.7 %) of the cobble habitat mapped adjacent to the shoreline of the Bond Falls impoundment. Proposed dock placement would impact less than one percent (0.15 %) of the fringe wetlands bordering the impoundment.*

As previously noted, the Environmental Studies did not provide adequate data to determine important aquatic resource zones along the shoreline. In the case of aquatic resources, we previously recommended the collection of site-specific (GPS-mapped) data on littoral resources such as gravel lenses, woody structure, and aquatic vegetation. Instead, these resources were discussed only in general terms in the Environmental Studies. Therefore, we do not believe that the data utilized by UPPCO is of the quality and specificity needed to determine the environmental impacts of any proposals seeking shoreline alterations, dock placement, or woody habitat manipulation.

**Response:** *The environmental reports are adequate to assess the level of impacts anticipated for the non-project uses. The SMPs do not allow the removal of coarse woody debris or timber harvesting on project lands. Although the agencies state that their comments were not adequately addressed or summarily rejected, they have not included specifics of the deficiencies which limit the Environmental studies, other than those stated below. The agencies have not provided new evidence to substantiate this claim.*

#### Carrying Capacity

The boating carrying capacity for each basin was calculated based on water surface area and the type of watercraft anticipated to be used. The calculation involved averages and range of boating densities which did not appear to be based on relevant literature (basins similar to the remote Upper Peninsula basins) or any on-the-ground observations. In our comments on the Environmental Studies, we noted that any meaningful calculation of boating carrying capacity needs to start with a determination of desired condition for each reservoir. Yet, this desired condition was not identified in the draft SMP as part of carrying capacity determination. Understanding and defining this future desired condition is a prelude to determining boating capacity, types of watercraft, and other appropriate recreational uses. We recommend using a decision making framework, such as Visitor Experience and Resource Protection (VERP; National Park Service, 1997) or Water Recreation Opportunity Spectrum (WROS; Haas, et al. 2004), to aid in identifying a future desired condition for each basin. These methods, widely accepted by State and Federal Resource Agencies and other entities involved in recreational planning, step through a process of identifying the significance of an area, the desired conditions (range of visitor experiences and resource conditions) for it, what combination of visitor experiences will best protect and enhance the water body values, and how to achieve and maintain the desired condition over time. This would include identifying possible management prescriptions for different shoreline zones, and then setting standards to be used for monitoring that would trigger management actions if standards were exceeded. Desired condition for each basin should be identified and should inform subsequent boat and dock related decisions (number of docks, public access sites, what types of boats). We are willing to work with you on developing a future desired condition for each basin using WROS or VERP. Without defining a future desired condition for each flowage, any assumptions made regarding watercraft capacity, type of watercraft, or other appropriate recreation is premature.

After reviewing the carrying capacity studies (which we believe need to be modified based on future desired condition) and draft SMPs, we noted instances where the calculations were based on flawed data and where conclusions were not incorporated into the SMPs. For example, the

entire surface areas of Prickett and Au Train were inaccurately utilized in calculating boating carrying capacity. At Prickett, much of the basin has extensive snags and stumps which would reduce the usable water surface area. At Au Train, the entire surface area of the basin was utilized in determining carrying capacity although a significant portion of the basin is closed as part of a DNR wildlife refuge from September 1 to November 10. The Au Train SMP suggests that the wildlife refuge was not factored into the carrying capacity analysis as the closing did not occur within the peak boating season. We again point out the error of this omission, as the extensive use of the basin by waterfowl hunters in the fall makes this one of the busiest boating period. Realistic calculations of water surface areas at each of the projects should be factored into boating carrying capacity estimates.

Further, we noted instances where the results of the carrying capacity study were not incorporated in the SMPs. According to the boating carrying capacity study, additional boat docks are not appropriate at both Cataract and Victoria. Nonetheless, additional boat docks or slips are proposed in the Pathway Access Area at Cataract. Docks are not appropriate at Victoria as well, per the boating carrying capacity study assuming a 200' buffer and combined use. The carrying capacity is already exceeded by the number of boats originating from the public launch. Given this information, it is not clear why docks are being proposed on either of these basins.

**Response:** *The boating carrying capacity calculations contained in the Resource Reports were based on methods obtained from an extensive literature review, including a comprehensive 2005 literature review done by Holly Bosely of the North Carolina State University Department of Parks, Recreation & Tourism Management (Techniques of Estimated Boating Carrying Capacity: A Literature Review). The literature review includes a variety of lake settings including one study of four lakes in Michigan.*

*While a specific decision making framework for determining a desired condition (e.g., WROS or VERP) was not utilized, UPPCO took an empirical approach and based its criteria for boating density on present day use at the impoundments. Typically this was mixed watercraft use and as such, a combined use density figure was used for determining boating carrying capacity and subsequently the number of docks appropriate for the impoundments.*

#### **Useable water surface area**

*Much of Prickett contains extensive areas where stumps and snags are prevalent. While inhibiting the safe operation of high speed water craft, these areas are nonetheless navigable by smaller, low or no horsepower boats. For that reason the entire surface area of the basin was legitimately used in calculating the useable surface area.*

*The entire Au Train surface area was used because as noted in the comment the southern portion of the impoundment which is associated with the wildlife refuge is only closed at the end of the boating season (September 1 - November 10). While there may be increased use of the lake during waterfowl hunting season, the typical boat used for that purpose is a low horsepower craft traveling at slow speeds. Under these conditions, an increased density of boats will not be a problem during the fall season.*

*Due to its sinuous, many channeled configuration, watercraft usage on Cataract is limited to small horsepower fishing boats (for trolling) and non-motorized canoes and kayaks. The lack of large, open basins and multiple channels would limit the number of boat interactions, allowing for a greater number of watercraft than calculated using typical boating carrying capacity studies.*

### **Victoria**

*The SMP does not propose any docks or boat slips on the Victoria Impoundment.*

### Docks

Docks could, depending on placement, have long term negative impacts on important fish, wildlife, and aesthetic resources. A study by Dahlgren and Korschgen (1992) determined that the installation of docks in areas of waterfowl breeding habitat forced waterfowl to move to less attractive sites. As previously discussed, dock placement can also impact fish spawning and nursery habitat. As nearshore habitat was not fully mapped, it is unclear how "dock zones" avoided these habitat areas. Anecdotal data provided by the Great Lakes Indian Fish & Wildlife Commission and Keweenaw Bay Indian Community (KBIC) suggests that on Bond and Prickett flowages, dock placement areas could overlap with important nearshore walleye areas. Without detailed substrate and bathymetry data, it is not possible to fully evaluate the extent of potentially significant adverse effects to aquatic resources. Such data is needed to determine if and where dock placement may be appropriate.

In order to further review dock and dock placement, we not only need more detailed aquatic resource information, but we also need valid carrying capacity estimates based on a desired future condition as discussed above.

**Response:** *We researched the reference provided and determined that it was simply a bibliography and did not provide substance regarding the installation of docks in areas of waterfowl breeding habitat. The SMPs analyzed the environmental impacts associated with dock placement on the impoundments and concluded that dock placement would have only minor adverse impacts on fish and wildlife and their habitat.*

### Wildlife

Implementation of the draft SMPs, including development of trails, pathways, new launch facilities, docks, and view corridors could impact important wildlife habitat through direct modification (cutting of small diameter trees for view corridors or paths), fragmentation, or human disturbance. Many neotropical migratory songbirds are especially sensitive to fragmentation of nearshore areas since fragmentation often results in the loss of ground cover and other habitats used for nesting, and may also lead to increased nest predation and nest parasitism (Austin 1961; Askins 1995; Robinson, et al, 1995; Engel and Pederson 1998; Lindsay et al. 2002). Cutting trees for trails, pathways, and view corridors could result in habitat fragmentation and loss of migratory bird nesting habitat.

**Response:** *It is incorrect to characterize the limited creation of paths, trails and view enhancement areas within the project boundaries, as proposed under the restrictions outlined in the SMPs, as the type of fragmentation evaluated as part of the literature that is cited in the agency comment. Due to the restrictions as outlined in the SMPs for the limited development of paths, trails, and view enhancement areas, these activities will not result in a break in the forest canopy and create forest fragmentation as cited in the agency comment.*

Increased human use of the shoreline and flowages as a direct result of access pathways and dock placement also could negatively impact sensitive wildlife species. To protect disturbance sensitive species, Asplund (2000) recommends limiting human access to undisturbed shorelines that provide habitat for species such as loons, herons, turtles, and eagles. In addition, several studies have found that increased use of motor boats led to increased disturbance of nesting birds (Asplund 2000), with migratory birds being of most concern due to their increased energy needs and resulting delayed migration (Kahl 1991). The trails and pathways proposed in the SMPs will promote greater human activities around the basins and no proposed SMP zones would prohibit trails. Individual docks, dock clusters, and new launch facilities will allow greater boating activity on each basin, in turn creating more disruption in wildlife.

**Response:** *Recreation is an essential use of land and waters of a FERC-regulated hydroelectric project. Approved dock zones were determined by identifying sensitive areas on the reservoirs and avoiding them during placement of the dock structures. The proposed placement of public pathways was also determined by identifying sensitive areas and avoiding them in placement of the pathways.*

*The restrictions placed on the installation of dock structures and pathways are designed to minimize negative impacts to any sensitive resources and other non-sensitive natural resources within the project boundary. The proposed SMP places significant additional land within the buffer zones that were not protected from human disturbance under the original license within the conservation zones. These additional lands placed within this conservation classification in the SMP not only contain the sensitive areas, but contain all additional lands within the project boundary that are not proposed for any type of disturbance.*

*As identified in the draft SMP, the public trail is to be identified and located in consultation with the resource agencies. If it is necessary through agency consultation, some sections will not be built within the conservation areas to prohibit additional disturbance to sensitive areas.*

These impacts to wildlife would conflict with license and plan objectives which relate to protection of these species and their habitat. Implementing the draft SMP would also conflict with the general requirement in the licenses to protect and enhance the resource values at each project. In addition to not meeting the objectives of the existing licenses and plans, the SMPs as proposed would result in additional long-term degradation and loss of wildlife habitat. The impacts to wildlife resources should be clearly discussed in the SMPs. The projects' plans should also be rewritten to address the new wildlife threats and impacts associated with implementing the SMPs.

#### Species of Concern

All the project's licenses address several species of special concern including federal and state listed threatened or endangered species such as the bald eagle, gray wolf, common loon, wood turtle, and osprey. Increased human disturbance and modification of habitat associated with implementing the draft SMPs could result in negative impacts to these species. These negative impacts are not consistent with licenses and plans which articulate UPPCO's responsibility to protect and enhance habitat for these species.

**Response:** *Restrictions included in the SMPs were developed to protect and enhance the project's land and water resources while providing for hydropower operations, future recreational enhancements, and lake access by the general public and adjacent landowners. In addition, the new restrictions will increase and enhance existing habitat for most of these species by eliminating timber harvesting and encouraging old growth forest characteristics. According to the MDNR web site ([http://www.michigan.gov/dnr/0,1607,7-153-10370\\_12145\\_12205-32569-,-00.html#DraftPlan](http://www.michigan.gov/dnr/0,1607,7-153-10370_12145_12205-32569-,-00.html#DraftPlan)) old growth forests may not be the best suitable habitat for the gray wolf. The web site states "Wolf habitat is enhanced by timber cutting, wildlife habitat management and other practices that create more diverse and productive forests." The wood turtle is currently not listed on any state or federal list regarding species of concern for the UP. The SMPs analyzed the environmental impacts associated with proposed non-project use of project lands and concluded that implementation of the SMP is not expected to have an impact on state or federally-listed threatened or endangered species.*

### Bald Eagle

All projects identify the need to protect and enhance habitat for bald eagles. This typically includes contributing to annual nest surveys, reducing human disturbance around nest sites, and protecting suitable habitat for eagles. At some basins, protection of forage and roost trees is also incorporated into the license and plans. The implementation of the draft SMPs could negatively affect eagles through increased human disturbance and direct modification of habitat.

The proposed conservation zones do not incorporate all nesting and foraging sites. Based on our review, it appears that only bald eagle nests which were active in summer 2006 were placed in the SMPs most restrictive conservation zone. In many situations, bald eagles utilize several nest sites in a general area and often switch activities among these nests year to year. This is true at Prickett and Au Train basins where one bald eagle pair has several nests on each basin. These alternate nest sites need to be incorporated into conservation zones. We consider nests to be "historic" only after ten years have passed without any nesting activity.

**Response:** *Since the drafting of the Bald Eagle Plans, the bald eagle has been de-listed as a federal endangered species. The eagle is currently listed as a Michigan State threatened species. The March 9, 2007, letter from the Michigan Department of Natural Resources lists state threatened and state species of special significance for the projects. All current eagle plans state that an eagle nest is considered historical after five years of non-use, not ten. UPPCO has revised the SMPs to include a greater amount of eagle foraging areas. All the plans (with the exception of Boney Falls) do not require the protection of foraging areas.*



Bald eagle foraging areas and roost trees were not thoroughly documented in the Environmental Studies and, when documented, these areas were not protected in conservation zones. For example, it is noted in the Boney Falls Endangered and Threatened Species Management Plan that the basin is used extensively by foraging bald eagles. The Plan includes a map of the important foraging areas. All of these foraging areas were not incorporated into a conservation zone.

**Response:** *The only areas that are not currently included in conservation zones for the Boney Project are areas that previously contained recreation or development prior to the drafting of the SMPs. It is important to recognize that the current licenses for the projects allow timber harvesting. UPPCO is proposing to prohibit all timber harvesting or the cutting or trimming of mature trees, therefore providing better protection of roost trees than the original licenses. On balance, the prohibition of all timber harvesting more than compensates for any unanticipated adverse effects that may occur from non-project uses on project lands.*

Increased human disturbance within project boundaries could impact foraging or nesting bald eagles. In addition to pedestrian activity along the shoreline on trails and pathways, the expected increase in watercraft activity may also adversely affect eagles. Studies have shown that bald eagles are affected by shoreline development (Buehler et al. 1991) and may be forced to spend additional energy on feeding as their nests are moved further inland to avoid human disturbance (Fraser et al. 1985). The implementation of the draft SMPs would likely reduce eagle nesting attempts or nesting success on project lands in the future.

As currently proposed, implementation of the draft SMPs could adversely impact bald eagles and conflict with license objectives for protecting and enhancing bald eagle habitat. Increased boating activity, trails, pathways, and numerous docks are new threats to eagles which need to be clearly addressed in the SMP. In addition, eagle related management plans for each basin need to be re-written to address any new impacts.

**Response:** *The SMPs prohibit all timber harvesting or the cutting or trimming of mature trees, therefore providing better, and a greater number of, roost trees than the original licenses or resource management plans. On balance, the prohibition of all timber harvesting should more than compensate for any unanticipated adverse effects that may occur from non-project uses on project lands. The SMPs will be an enforceable document that will assure new threats from unanticipated uses at the time of licensing are adequately identified, evaluated, and addressed. Therefore, since current plans do not restrict these uses, the plans do not need to be modified. All the current licenses have a standard land use article that allows these uses, provided they protect or enhance the scenic, recreational and other environmental values of the project. It is the purpose of the SMPs to assure that this happens. In addition further protections for project lands have been added to the SMPs to address these new uses. The SMPs analyzed the environmental impacts associated with proposed non-project use of project lands and concluded that implementation of the SMP is not expected to have an impact on state or federally-listed threatened or endangered species.*

Gray Wolf

Gray wolves are found throughout the Upper Peninsula of Michigan. Since gray wolves move extensively throughout the area, it is presumed that project lands are utilized by wolves at least periodically. Gray wolves were recently removed from the list of federally threatened and endangered species, but still remain on the Michigan endangered species list.

The existing project management plans for gray wolves focus on reducing threats from logging activities including closing logging roads and protecting den and rendezvous sites. Given the proposed changes to project lands discussed in the SMPs, protective measures that address threats of logging activities on wolves are no longer relevant. The plans need to be re-written to incorporate new threats and impacts associated with SMP implementation. Increased human activity and disturbance of project lands, as well as associated non-project land development, may result in less utilization of these areas by wolves. The numerous new access points around the shoreline proposed by UPPCO in the SMPs, along with trails and other recreational enhancements around the flowage shoreline, would be in direct conflict with license direction and likely lead to irreversible degradation of wolf habitat.

As currently proposed, implementation of the draft SMPs could negatively impact gray wolf and conflict with license objectives for protecting and enhancing wolf habitat. Increased human disturbance associated with trails and pathways are new threats to wolves which need to be clearly addressed in the SMP. In addition, wolf related management plans for each basin need to be re-written to address any new impacts.

**Response:** *The March 9, 2007, letter doesn't include the gray wolf as a species of concern for any of the current projects. The agencies comment that the gray wolf remains on the Michigan endangered species list. However, the Michigan Department of Natural Resources Wildlife Division's list of Endangered and Threatened Species list shows the status of the gray wolf as state threatened. Since all timber harvesting is prohibited by the SMPs, no new logging roads will be constructed and some existing roads may be discontinued. These measures will ensure that human impacts on the gray wolf within the projects are minimized. The SMPs analyzed the environmental impacts associated with proposed non-project use of project lands and concluded that implementation of the SMP is not expected to have an impact on state or federally-listed threatened or endangered species.*

#### Common Loon

Based on the Environmental Studies, common loon or common loon habitat was found at Au Train, Bond, Prickett, and Victoria basins during a one or two day visit to the basins. Only the Bond Falls license (Bond and Victoria basins) specifically identifies measures to protect and enhance habitat for loons. With loon habitat observed at Prickett and Au Train, we believe protection of loons at these basins is important and management plans are warranted.

Increases in human disturbance and boating activity as a result of SMP implementation would negatively impact loons. Loons are highly sensitive to human disturbance (Evers 2004). Loons are also known to be affected by both shoreline development, which often results in the removal of nesting materials, and increased recreational use (Titus and VanDuff 1981; Evers 2004).

During our review, we also noted that not all high quality loon habitat was protected by a Conservation Area. For instance, only a portion of the high quality habitat at Bond Falls flowage would be placed in a Conservation Area with accompanying no-wake signs. Several other high quality loon areas on Bond Falls, however, are not protected in a conservation zone. In one location, where the agencies recommended loon platform placement, UPPCO proposed a cluster dock (see Figure 8-2 of the Bond Falls SMP).

**Response:** *UPPCO has revised the SMP for Bond Falls to increase conservation areas to protect unique sensitive areas identified in the environmental reports.*

As currently proposed, implementation of the draft SMPs could impact common loon and conflict with Bond Falls license objectives of protecting and enhancing loons and loon habitat. Increased watercraft activity and increased human disturbance associated with trails, pathways, docks, and new boat launch facilities are new threats to loons which were not addressed in the relicensing process. These impacts to loons need to be clearly addressed in the SMPs. The Bond Falls Wildlife Plan needs to be re-written to incorporate and consider these new threats to loons. Loon protective measures need to be added to Prickett and Au Train wildlife management plans.

**Response:** *Pursuant to the previously mentioned consultation with Christie Deloria, not all potential loon habitat requires protection. In general, literature has shown that increased human pressure may affect loon nesting; however, it has been documented that some individual loons can acclimate to human activity over time and can nest successfully under moderate levels of human pressure (McIntyre and Barr, 1997, Heimberger et al., 1983). The non-project use of project lands will not be immediate and is anticipated to occur over a period of ten to fifteen years. Increased human pressure may also come from a general increase in recreation use of the impoundments. All potential habitats need not be protected especially where no nesting pairs of loons currently exist. The focus should be on actually used territories. On impoundments that do not currently have nesting populations, an adequate amount of prime nesting areas will be protected for future use. The SMPs analyzed the environmental impacts associated with proposed non-project use of project lands and concluded that implementation of the SMP is not expected to have an impact on state or federally listed threatened or endangered species.*

*The SMPs will be an enforceable document that will assure new threats from unanticipated uses at the time of licensing are adequately identified, evaluated, and addressed. Therefore, since current plans do not restrict these uses, the plans do not need to be modified.*

#### Sturgeon (Prickett and Victoria)

Lake Sturgeon is listed as a state threatened species in Michigan. Currently there are only three known river spawning locations remaining for this species within the U.S. side of the Lake Superior basin. One of these spawning locations is just downstream of the Prickett dam on the Sturgeon River. Downstream of Victoria Dam on the Ontonogan River, there are ongoing efforts to restore a spawning population of lake sturgeon. Increases in boating activity on these basins

could result in water quality degradation and impacts to downstream spawning adults, eggs, or larvae. The SMPs need to address potential impacts to lake sturgeon.

**Response:** *UPPCO has revised the Prickett SMP to eliminate the proposal to remove stumps for navigation. The presence of the stumps will limit the size and speed of boats that will use the project. The SMPs analyzed the environmental impacts associated with proposed non-project use of project lands and concluded that implementation of the SMP is not expected to have an impact on state or federally-listed threatened or endangered species.*

#### Old Growth/Land Management

Each of the projects has an approved land management plan that refers either to management for old growth forest or protection of forest vegetation. In all instances, the proposed non-project uses of project lands and permitted activities would negatively affect old growth or other forest communities within the project boundaries. Therefore, these activities would be inconsistent with the FERC licenses and approved plans.

**Response:** *UPPCO designed the SMPs to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the projects' licenses and FERC-mandated management and monitoring plans. An important component of each of the SMPs is that UPPCO has prohibited timber harvesting at each of the projects where timber harvesting is currently a permitted activity. The allowance of timber harvesting is contradictory to the development of old growth characteristics. Therefore, by prohibiting timber harvesting the SMP is promoting old growth forest development.*

The licenses for Bond Falls and Cataract refer to management of the project lands for old growth. The DNR uses a working definition of old growth: "Old growth forests are those that approximate the structure, composition, and functions of native forests. These native conditions generally include more large trees, canopy layers, native species, and dead organic material." As proposed in the SMPs under Permittable Activities, cutting brush or small trees and removing tree limbs or dead organic material for paths and enhanced view areas would not be consistent with old growth forest development. Trenching along the paths to install electrical lines would also negatively impact old growth forest, as it would damage tree root systems and disrupt ground-level vegetation.

**Response:** *The Cataract license does not mention the management of old growth forest characteristics. UPPCO has designed the SMPs to prohibit timber harvesting on each of the projects, although it is currently allowed in the licenses. The allowance of timber harvesting is contradictory to the development of old growth characteristics. Therefore, by prohibiting timber harvesting the SMP is promoting old growth forest development. UPPCO has revised the SMPs by removing the installation of underground electric wiring.*

While Au Train, Prickett, and Boney Falls projects do not have specific old growth management objectives, they have approved FERC plans that include provisions for protection of forest vegetation. In each plan, project lands are to be maintained with a diversity of vegetation types and age classes to encourage wildlife use and preserve project aesthetics. Since the creation of

enhanced view areas, trails, and pathways within project lands was not envisioned when these plans were written during relicensing, they need to be amended or rewritten to address these new threats.

**Response:** *The SMPs have stricter controls on vegetation management than the current licenses or the approved management plans. The SMPs will be an enforceable document that will assure new threats from unanticipated uses at the time of licensing are adequately identified, evaluated, and addressed. Therefore, since current plans do not restrict these uses, the plans do not need to be modified.*

## Recreation

### Recreational Enhancements

Significant recreational enhancements are proposed in each SMP. According to UPPCO, these enhancements, in addition to what is provided for in each license, will assure that recreational access to the general public is provided as the land surrounding the project boundary is developed. UPPCO intended to site these recreational facilities to avoid sensitive environmental resources and to ensure that their use was consistent with existing FERC license plans.

The proposed recreational enhancements are inconsistent with the licenses. Many of the enhancements conflict with key license objectives, particularly those relating to protection of wildlife habitat, minimizing human use of the project shoreline, maintaining existing walk-in access for dispersed recreation, and protection of shoreline aesthetics. For example, the proposed Little Falls access point and parking area is located within one of the most environmentally sensitive areas along the Bond Falls shoreline. As noted in the Environmental Studies, the sand bank along the east side of the Little Falls Bay contains high quality wood turtle nesting habitat and wood turtles were observed in this area during the 2006 survey (wood turtles are a U.S. Forest Service Sensitive Species and also a State of Michigan Species of Concern due to declining populations). Two of the primary threats to wood turtles are poaching by humans and human disturbance of turtles during their nesting season. Additional human use of this area would conflict with the objective of protecting this rare species and its habitat.

To avoid unnecessary conflicts with the existing FERC license plans, the agencies recommend that recreational enhancements not be implemented at this time. While some of these enhancements such as public docks to alleviate use and crowding at public launches may be needed in the future, there is currently no demonstrated need. Because many of these enhancements may have negative environmental, recreational, and aesthetic impacts, recreational enhancements should only be considered when a need is indicated by the periodic recreational use assessment (FERC Form 80). Further, if it is demonstrated that recreational enhancements are warranted, the implementation schedule should not be tied to dock placement.

**Response:** *UPPCO feels the Bond impoundment has been mischaracterized as a remote, pristine wilderness lake by the resource agencies. To the contrary, Bond impoundment is readily accessible by paved and maintained gravel public roads. The southern and southwest portions of the shoreline are accessible by high standard logging roads that for the most part are*

passable by high body 2WD vehicles and are also used by ATVs and snowmobiles. Formal recreation sites have been developed at the project and some outlying informal sites are being incorporated into formal locations because of high, unmanageable public use that is resulting in shoreline erosion damage. In addition, seasonal and year-round homes are located on the north shore of the impoundment.

For the above listed reasons UPPCO generally disagrees with the joint agency comments on the lack of need for recreation enhancements, especially at the Bond impoundment. FERC projects are anthropogenic impoundments and increases in various forms of public recreation opportunities are usually the most recognizable benefits of a FERC project to the general public. In the case of the Bond Falls impoundment, there is an opportunity to expand recreation opportunity to encompass more than the remote, difficult access form of recreation that the Upper Peninsula so much abounds in. In addition, The agency statement that "additional access should not be encouraged" at certain sites does not keep people from using a site but merely prevents UPPCO from protecting specific sites as public access continues on unprepared ground.

As a result of this disagreement, UPPCO continues to propose numerous recreational enhancements at the majority of the impoundments, although some enhancements have been eliminated from the SMPs.

### Impacts to Recreational Use

Currently, each of the projects is located in a rural, mostly forested landscape. Recreation, for the most part, is informal with many users participating in bird watching, fishing from boats and shore, or hunting. Many of UPPCO's recreation sites are primitive in nature and consist of a boat launch, canoe portage, and outhouse. The public has become accustomed to this type of recreational experience at all of these projects, and the existing licenses and license plans are written to provide this type of use. Current recreational uses, such as tribal fish spearing at Prickett, could be negatively impacted by development of the project shorelines and installation of docks. Allowing the proposed non-project uses of project lands will result in a different recreational experience and in some instances, conflicting use.

One of the Resource Agencies concerns with the increased non-project use of the project lands is the negative impact to hunting. Hunting is very important to Michigan's rural economies. In 2001, 754,000 Michigan residents and non-residents spent \$490 million dollars on equipment, travel, and hunting licenses (U.S. Department of the Interior et al. 2001). Recreational hunting is especially important at the Au Train project, which includes a 2,000 acre wildlife refuge that covers a significant portion of the southern basin. The DNR describes the Au Train Basin Waterfowl Project as the most productive game lands in Alger County because of the diversity in cover types including northern forests, aspen, and cherry, all mixed with small and large openings that provide for excellent wildlife habitat. Although the Au Train SMP states that the sale of non-project lands will not impact hunting practices because the Non-exclusive License

Agreement will require designated homeowners to allow waterfowl hunting within 200 feet of their dwellings (State law prohibits hunting from within 480 feet of a dwelling without written permission from the owner), we are concerned that the designated locations only represent a small portion of the basin. Other flowages and surrounding shorelines also experience considerable use by hunters, particularly waterfowl hunters and upland game hunters. We maintain that proposed non-project uses of project land would restrict the ability of the public to participate in current recreational uses, including shoreline hunting.

**Response:** *The project boundaries of the various projects are not being changed. Additional public recreational access is being proposed at all of the projects. Upland game hunting will not be affected within any of the projects with the exception of state mandated setbacks from residential buildings. None of the involved projects have been proposed for residential development. All residential development will be outside of Project boundaries. In the instance of the Au Train Project UPPCO is aware of the high use of the project by waterfowl hunters and as part of any sales agreement of abutting non-project land the new owners will be subject to the Non-exclusive License Agreement that requires landowners to allow hunting within 200 feet of their dwellings.*

#### Wild Rice (Prickett Only)

Prickett Reservoir has been identified by KBIC as a potential area for wild rice establishment. To date, there have been limited areas identified around Baraga and L'Anse where wild rice would be successful and where tribal members would have unhindered access. The potential for increased boating, water quality degradation, and non-native species introduction as a result of SMP activities could impede establishment of wild rice at this reservoir. Placement of docks and subsequent boating impacts may conflict with KBIC's culturally significant wild rice planting and harvest. Impacts to wild rice establishment at Prickett should be addressed within the SMP.

**Response:** *The wild rice establishment would need to occur in areas of shallow water that contains the proper substrate. It is currently unknown if the KBIC has completed substrate surveys that show the proper planting areas for wild rice at the Prickett impoundment. Approved dock zones identified in the SMPs are generally in areas of deeper water, not shallow water areas. Wild rice establishment is very vulnerable to extreme wave action during the floating leaf life stage and the long fetch of Prickett reservoir may be detrimental to the establishment of wild rice. Stumps in the Prickett reservoir limit boating activity, thereby minimizing wave action that may be detrimental to the establishment of wild rice. Therefore the potential non-project uses will not impact wild rice establishment. Furthermore, KBIC has not approached the licensee to discuss the establishment of wild rice on the Prickett reservoir.*

#### Navigation Channel (Prickett Only)

The resource agencies have previously expressed several concerns about removing stumps or snags from this reservoir (see August 28, 2006 agency comments). We believe it is premature to propose removal of stumps and snags from this water body prior to preparing a recreation opportunity analysis and establishing a "desired condition" for the reservoir (see our related comments under Carrying Capacity above). Until a desired condition is established and the

appropriate types of water-based recreation for the reservoir are defined, the necessity of stump and snag removal is unknown. For example, if the primary recreational uses of the reservoir are fishing and observing nature with small watercraft (canes, kayaks, small fishing boats), then the presence of stumps and snags would likely enhance the recreational experience and their removal would not be desirable. It should be noted that the primary use of the reservoir at the present time is primarily by this type of small watercraft.

Snags have considerable value for several bird species that nest in this area. Bald eagles and ospreys utilize some of the larger snags as places to perch or forage. The Prickett Bald Eagle Management Plan requires protection of important eagle habitat, which would include snags utilized by eagles. Several cavity-nesting bird species also utilize these snags. Removal of these nesting snags would result in a direct, negative impact to this unique habitat feature, as noted in the Prickett E-PRO Report (p. 3-25).

Further, flooded stumps and snags have considerable value as fish habitat and as a substrate for aquatic invertebrates, as previously indicated to UPPCO by the resource agencies. The revised (October, 2006) Prickett E-PRO Report Section 3.3.4 discusses the value of this wood to the fishery in the reservoir. This information, which indicates a probable decrease in benthic invertebrate production, fish growth rates, and fish production if flooded stumps and snags are removed, was not fully considered or utilized in the Prickett SMP. There is no analysis or discussion in the Prickett SMP of the direct, indirect, and cumulative effects of removal of flooded stumps and snags on the aquatic ecosystem, including fish.

Based on the above, the proposed removal of stumps and snags may be inconsistent with the license and license plans in several areas, including protection of natural aesthetics, protection of bald eagle habitat, and protection of wildlife and fish habitat.

**Response:** *UPPCO has modified the SMP for Prickett to remove any project associated with the creation of a navigation channel. Therefore, there will be no stump removal.*

### Aesthetics

Activities associated with the SMPs, such as installation of docks, predicted increases in boat traffic, cutting of view corridors, and installation of trails could impact the aesthetics of each basin. Currently these basins are primarily remote flowages with few to no docks or other shoreline development and limited boating activity. Noise and visual disturbance from boating can impact the character of an area. In FERC's Guidance for Shoreline Management Planning at Hydropower Projects it states: "The licenses should have an idea of what the project's aesthetic resources are, areas of the project that are considered to have high aesthetic values, why those areas have high values, and who values the aesthetic resources. Aesthetic attributes that are commonly valued include vegetated shorelines, clean water, the presence of wildlife, and views of water. Conversely, licensees should have an idea of highly valued shoreline views that are threatened or have been degraded by past development."

It is unclear in the SMPs how the information on aesthetic resources was utilized in developing appropriate shoreline classification zones. Some of the highly scored aesthetic units identified in



the Environmental Studies were not placed in Conservation Areas and could therefore be degraded by some level of development activity including construction of trails, pathways, formal recreation areas, or docks.

**Response:** *UPPCO's environmental reports included an aesthetic assessment of each impoundment. Data layers from the aesthetics investigations were created and overlaid on digital ortho-rectified aerial photography. These maps, in conjunction with other resource data layers served as the primary tool in developing the appropriate shoreline classification zones. Recognizing that these projects are not considered wilderness areas, but are actually developed hydropower projects, UPPCO nonetheless attempted to minimize visual impacts by locating individual docks and cluster docks in areas that were sheltered from prominent viewing locations around the impoundment, maintaining low profile docks and utilizing natural (muted) colors that do not stand out against the background landscape. Additionally, UPPCO has prohibited the installation of docks, boat lifts, and associated lighting at the Victoria impoundment; therefore, no impacts to aesthetic resources at the Victoria impoundment are anticipated. For the remaining impoundments, the SMPs analyzed environmental impacts associated with the physical presence of the proposed boat docks and determined there would be a minor, long-term visual impact on the shoreline. Increased boating use on the impoundments would create long-term, intermittent-noise impacts in the immediate vicinity*

#### Shoreline Erosion

Increases in boating activity on these basins could result in greater shoreline erosion. It is well understood that motor boats may cause shoreline erosion through increased wave action (Engel and Pederson 1998; Mosish and Arthington 1998). Most shoreline erosion from boating is anticipated to occur in shallow and nearshore areas (Asplund 2000). The SMP should discuss this potential for shoreline erosion. Shoreline erosion plans for each project should be re-written to address this new threat and incorporate monitoring and appropriate mitigation measures.

**Response:** *The Bond and Au Train impoundments have FERC-approved shoreline erosion requirements while the remaining projects do not. The proposed restriction on boat size at Cataract will minimize the potential for boat-wake induced erosion. The small number of proposed boat slips at Boney Falls should also serve to minimize the potential for boat-wake induced erosion. The abundance of stumps at the Prickett impoundment will enforce low boat speeds, limiting boat wakes. The potential for erosion at the respective impoundments would be greater if individuals were allowed to pull their boats on shore and to randomly access the shoreline. Through implementation of the SMPs, installation of formalized paths to established docks will decrease the potential for erosion that may occur from informal, unauthorized use of project shoreline.*

#### Wetlands

There are various wetland types associated with each flowage both along the shoreline and slightly inland within the project boundary. According to Michigan's Wildlife Action Plan (Eagle et al. 2005), "Wetlands are vital for a variety of Michigan species: they provide important breeding, spawning, and nursery habitat for many fish species; nearly all of Michigan's

amphibians are dependent on wetlands, particularly for breeding; they provide nesting sites for migratory waterfowl and nesting or foraging sites for a variety of landbirds, waterbirds, and waterfowl; and they are preferred by mammals such as muskrats, otter, and beaver.” Protection of Michigan’s varying wetland types is a conservation priority.

Some of the wetland areas identified as part of the Environmental Studies were not incorporated into Conservation Areas. Impacts to these wetlands could occur if they are filled to facilitate non-project uses of project lands. In addition, the SMP should discuss how nearshore wetland communities may be affected by increased boating activity. Wetlands within the project boundaries could be impacted as a result of implementing the SMPs.

**Response:** *UPPCO understands the value of wetlands and has designed its SMPs to prohibit the removal of wetland plants. UPPCO has reviewed the SMP classifications for the impoundments and, where applicable, has revised the SMPs to incorporate mapped wetland areas into the SMP classification of conservation. In very limited instances, those wetlands that were not incorporated into conservation areas are shown on the Section 7 series maps.*

### **SMP Implementation**

UPPCO should develop a SMP monitoring and enforcement plan concurrently with the SMPs, with input from the Resource Agencies. We also believe that the SMPs should be monitored and reviewed on a regular basis to determine their effectiveness. We recommend monitoring the following items as a minimum (this list may increase as the SMPs are developed and additional monitoring needs are identified): amount of undisturbed shoreline, changes in fish and wildlife habitat/fish and wildlife use of project lands and water, change in condition of buffer strip and project land vegetation, number of docks, number of boats launched, number of permit violations and how addressed, and changes in adjacent land use. We also recommend that, if agreement is reached on the Shoreline Classification System, the designated areas remain in place for the term of the license, with the exception that additional areas may be designated for conservation purposes if warranted (e.g., identification of sensitive species).

Implementation of the SMPs is also likely to require the development of road access to non-project and project lands. At Au Train, Bond Falls, Prickett and Victoria access through National Forest System lands may be needed. Obtaining approval and any required permits for access through National Forest System lands will need to be pursued directly with the Hiawatha National Forest for Au Train and with the Ottawa National Forest for Bond Falls, Prickett and Victoria. It is also important to note that this connected action needs to be fully disclosed and evaluated by FERC in any Environmental Assessment or Environmental Impact Statement they prepare in response to these SMPs.

**Response:** *UPPCO is responsible for implementation of the enforceable SMPs. UPPCO will ensure that sufficient staff are available to enforce the SMPs and other license requirements. The SMPs require annual discussions with the resource agencies on the effectiveness of the current restrictions and to discuss the progress of the implementation of the SMP. Information regarding consultation can be found in section 11.0 of the respective SMPs. It is not necessary*

*to obtain access to National Forest Lands while implementing the non-project use of project lands as proposed in the SMP. Connected activities within the project have been disclosed.*

### **Summary**

In summary, non-project related activities as described in the SMPs are not consistent with FERC licenses and management plans for the basins. Additional detailed aquatic substrate, bathymetry, and forest stand information is necessary to fully evaluate potential impacts to these resources. Based on the limited information provided, new threats and impacts to natural, aesthetic, and recreational resources are likely. We believe these new threats and impacts should be fully analyzed and discussed in the SMP. Furthermore, management plans need to be rewritten, with agency involvement and concurrent with SMP development, to address these new threats and impacts. Finally, we recommend incorporating a monitoring component into the SMPs.

**Response:** *UPPCO disagrees with the agencies summary statement. To reiterate our position, UPPCO designed the SMPs to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the projects' licenses. No additional environmental studies are necessary; the environmental reports and volumes of recreation and environmental information that were collected during relicensing provide an adequate assessment of natural resources present at each of the reservoirs sufficient to characterize potential impacts that may result from the proposed non-project uses of project lands. There are no new threats that would result from implementation of the SMPs that are not already addressed in the project license, through resource management plans or through the standard land use articles. The SMPs will be an enforceable document that will assure new threats from unanticipated uses at the time of licensing are adequately identified, evaluated, and addressed. UPPCO reviewed each of the FERC-approved resource management plans for the projects and determined that some minor amendments to existing approved management plans will be necessary. The limited situations where resource/management plans need to be amended, are so identified in the specific SMPs.*

We look forward to continued communication regarding the draft SMPs and encourage you to set up a meeting to discuss our above concerns.

Sincerely,

Table 2. Air Train License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP				
License Article	Plan	Objectives	Conflict	Response
404	Noxious Plant Monitoring Plan	Monitor and control for Eurasian water-milfoil and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies	UPPCO will develop a program to educate the public and to reduce the spread of nuisance species that have potential to be introduced to the project property. Impoundments or levees have the potential to be spread to other areas outside the project through uses of the project. UPPCO will focus only on species for which the resource agencies have educational materials. In the future, UPPCO is willing to monitor additional nuisance species identified by the agencies provided they have effective, economical and reasonable control techniques to eradicate the species from the reservoir, demonstrated through their own control programs. An amendment to the Noxious Plant Monitoring Plan is not necessary; these additional measures will be implemented through the SMP.
405	Bald Eagle Management Plan	Protection of current nests, areas of medium to high potential for nesting, abandoned nests, historical nesting areas, and blown down nests	The description of Article 405 needs to include protective zones around all eagle nests-active and inactive-rather than only nests that have seen activity within the last year	The Bald Eagle Management Plan currently specifies that nests are only considered historic after they have been un-maintained and inactive for five consecutive years. As an additional measure, UPPCO will place informational buoys at the outer edges of primary nesting areas, areas consisting of a 330 foot radius around an existing eagle nest that has been active within the last five years) that extend into the impoundments, to discourage boaters from approaching active nests.
		Protect existing and potential habitat, including nesting sites, perch trees, and roosts. In the plan, the entire basin is classified as potential bald eagle habitat	Non-project use of project land will result in negative impacts to bald eagle habitat and nesting success.	In the Bald Eagle Management Plan, the entire basin is not classified as potential bald eagle habitat. Potential nesting habitat is considered to be habitat that has been determined by a qualified individual to be of medium or high nesting potential. See the bald eagle plan page 7 and Appendix 1. Also the restrictions included in the SMP are consistent with the requirements for the protection of the bald eagle included in the management measures section of the bald eagle management plan. Since the SMP calls for the lands within the project boundary to be managed for old growth characteristics, there will be no cutting of super canopy trees. In addition, plenty of roost trees will be available making no single roost tree critical.
406	Wetland Management Plan	Protection of environmentally sensitive areas by: 1) forest habitat management and development, 2) waterfowl management, and 3) endangered or sensitive species management	Not all environmentally sensitive areas, including wetlands and high value forest types, are protected by the proposed shoreline classification.	The draft SMP was specifically designed to prohibit timber harvesting. Based on agency feedback, UPPCO has modified the restrictions in the SMP to specifically prohibit the cutting of white, red and mast bearing trees, and Eastern Hemlock. The waterfowl refuge has been placed into the Conservation Limited Public Trust SMP classification.
		Minimize impact to the buffer zone, increase the overall number of waterfowl using the project, and protect sensitive species	Non-project use of project land will result in negative impacts to the buffer zone and less waterfowl use and protection of sensitive species	UPPCO has modified the SMP to include all of the waterfowl refuge into the Conservation Limited Public Trust SMP classification.
		Maintain the forest with a diversity of vegetation types and age classes and protect cavity nesting and super canopy trees	Any cutting of vegetation within the buffer zone will conflict with the objective	To maintain a diversity of vegetation types and age classes, some sort of forest management activity is required. Therefore, the limited cutting outlined in the SMP is not inconsistent with this objective, however, timber harvesting is strictly prohibited on all project lands.
407	Land Management Plan	Fruit and mast bearing trees and shrubs will be retained for the enhancement of wildlife, lowland stands of conifers for winter cover of white-tailed deer will be maintained, and hollow, wolf trees, and den trees will be retained	UPPCO's proposal to allow removal of vegetation to install electrical lines and placement of walking paths is in conflict with the intent of this plan. Protection of terrestrial resources should be maintained and Article 407 should not be eliminated.	UPPCO has revised the SMP to eliminate the installation of underground electrical supply lines. Additionally, no cutting of fruit and mast bearing trees or eastern hemlock is permitted on Project lands. Based on input, UPPCO has revised the Air Train SMP to amend the Comprehensive Land Management Plan, not to eliminate it.
		The majority of the shoreline is in a natural state and all lands are open for public use. As a result, the lands are managed to provide both recreation and protection of the natural beauty of the area	Use of the Buffer Zone for hunting would be essentially eliminated in areas adjacent to private lots, since Michigan Law prohibits discharging a firearm for hunting within 450 feet of an occupied residence.	Those residences who purchase land outside of the project boundary and have a NLA from UPPCO are required to allow hunting within 200 feet of their residence.
		Annual shoreline erosion monitoring	UPPCO proposes to eliminate Article 407, thereby eliminating	Based on input, UPPCO has revised the SMP to amend Article 407 to address increased

**Table 2. AuTrain License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP**

License Article	Plan	Objectives	Conflict	Response
			annual shoreline erosion monitoring. Given the potential change in surrounding land from forested to housing development, annual shoreline erosion monitoring and control is essential to protect natural resources.	<i>protection of project lands by eliminating tree harvesting on all project lands and restricting other uses to what is currently allowable through the existing comprehensive land management plan for AuTrain. Annual erosion monitoring will still be a component of the Land Management Plan.</i>
409	Recreation Plan	Development of agreed upon recreational facilities and improvements.  Scenic views from the water are of an undeveloped shoreline. Views from the public recreation facilities are scenic, unobstructed, and aesthetically pleasing.	UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Firm M recreational use and further determination of environmental impacts associated with increased non-project use of project lands.  Non-project use of project land will result in development of the shoreline and decreased scenic and aesthetic value.	<i>UPPCO has revised the SMP and modified the schedule for developing recreation improvements. The implementation schedule prioritizes those improvements that are currently needed and those that may be needed as recreation demand increases.</i>  <i>The shoreline will remain largely undeveloped and the SMP prohibits residential development within the project boundary. To minimize visual impacts, UPPCO has revised the SMP to prohibit the installation of undeveloped, decked, or paved areas, the installation of recreation facilities, floating docks, and the use of rafts.</i>
New	Water Quality Monitoring Plan	Water quality monitoring is not required under the existing license based, in part, on the minimal potential for development.	A water quality monitoring plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of the project lands and water.	<i>Implementation of the SMP does not necessitate the creation of a monitoring plan for water quality at the project. No "development" is proposed within the project boundary and to UPPCO's knowledge no other area lakes that have or may experience an increase in recreation pressure have been requested to monitor water quality.</i>
New	Loon Protection and Enhancement Plan	Loon protection is not required under the existing license.	We recommend that the license be amended to include a Loon Protection and Enhancement Plan. As recommended in E-PRO's Environmental assessment, observations and studies at common loon sites at AuTrain Impoundment should continue. The continued studies will allow for protection of preferred habitat, identification of any limiting factors, and form the basis for recommending any enhancement measures necessary to insure future nesting success.	<i>Implementation of the SMP does not necessitate the creation of a new plan to protect loon or loon habitat. The Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources of the AuTrain Impoundment (E-PRO 2006) does not recommend that the impoundment should continue to be monitored, instead, the assessment identifies three areas on the impoundment that contain the best available habitat and concludes "this impoundment harbors some high quality nesting habitat." This, coupled with the fact that loons were frequently observed here, suggests that the lake could potentially be used for nesting." Of the three habitat areas identified, all have been placed into the SMP classification of conservation. Additionally, based upon our consultation with Christine DeGonia of SEWRPC, not all potential loon habitat requires protection. In general, the critical nesting habitat areas are the main reservoirs of the lake, including the reservoirs that are currently used for recreation. In general, the critical nesting habitat areas are the main reservoirs of the lake, including the reservoirs that are currently used for recreation. In general, the critical nesting habitat areas are the main reservoirs of the lake, including the reservoirs that are currently used for recreation.</i>

**Table A. Boney License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP**

License Article	Plan	Objectives	Conflict	Response
403	Water Quality Monitoring Plan	Monitor DO downstream of the dam on an annual basis	An amendment to the plan will be needed to address water quality issues associated with increased impoundment adjacent to the project and increased recreational usage of the project lands and water	<i>Article 403 is not applicable to Boney Falls, only Dams No. 1 and 3 of the Escanaba Hydro Project. Regardless, implementation of the SMP would not necessitate the inclusion of a monitoring plan for water quality at the project. No "development" is proposed within the project boundary and, to UPPCO's knowledge, no other area lakes that have or may experience an increase in reservoir pressure have been requested to monitor water quality.</i>
409	Noxious Plant Monitoring Plan	Monitor and control for Eurasian watermillet and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curly-leaf pondweed) when requested by the resource agencies	<i>UPPCO will develop a program to educate the public and to reduce the spread of nuisance species that have potential to be introduced in the project property and impoundments or have the potential to be spread to other areas outside the project through uses of the project. UPPCO will focus only on species for which the resource agencies have educational materials. In the future, UPPCO is willing to monitor additional nuisance species identified by the agencies, provided they have effective, economical and reasonable control techniques to eradicate the species from the reservoir, demonstrated through their own control programs. An amendment to the Noxious Plant Monitoring Plan is not necessary as these additional measures will be implemented through the SMP.</i>
410	Threatened and Endangered Species Plan	Minimize or restrict access through areas where special concern resources occur	Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species.	<i>The public pathway areas have been located to avoid impacts to sensitive areas. Conservation areas have been placed around loon areas, osprey areas, and documented sensitive resources. Additionally, UPPCO has prohibited timber harvesting on project lands, thereby increasing the potential habitat for sensitive species.</i>
		To protect bald eagles, the buffer zone is designated as a no harvest zone.	Any cutting of vegetation within the buffer zone will conflict with this objective	<i>Through implementation of the SMP, UPPCO proposes to prohibit timber harvesting on all project lands. Vegetative trimming standards in the SMPs are more restrictive than the current requirements and allows the cutting of those trees less than 2 inches in diameter and limbs within 8 feet of the ground.</i>
		Human activity is restricted within the buffer zone during the bald eagle nesting period and winter months	Previous studies have found that eagles nesting in the vicinity of this project are sensitive to human activity. Non-project use of project land will result in negative impacts to bald eagle habitat and nesting success.	<i>The SMP restricts the uses within the buffer zone. The only activity allowed besides existing recreational use is limited pathway development, that will be supervised by UPPCO to assure that sensitive resources are not impacted and possibly a public trail sometime in the future which will be sited in consultation with the agencies. As additional measures to avoid potential disturbance to bald eagles nesting, perching and/or feeding within project boundaries, UPPCO will make educational materials available to the public that will emphasize the importance and sensitivity of nesting and feeding areas and encourage cooperation in avoiding disturbances to the eagles. In addition, informational buoys will be placed at the outer edges of primary nesting areas (area consisting of a 300 foot radius around an existing eagle nest that has been active within the last five years) that extend into the impoundments, to discourage boaters from approaching active nests.</i>
		Minimize disturbance by human activity to protect raptor and waterfowl nesting success and feeding	Non-project use of project land will result in increased human use and less protection for raptor and waterfowl nesting and feeding	<i>Additional undisturbed raptor and waterfowl habitat will be available due to the elimination of timber harvesting within the project boundaries. The MDNR letter dated March 9, 2007, indicated that state threatened species at the project include osprey, New England violet, and wild chives. The New England violet and wild chives are located downstream of the project and are not anticipated to be impacted by implementation of the proposed SMP.</i>
		No trees shall be removed from the buffer zone without prior consultation with the resource agencies. Trees should only be removed if required for disease control or public safety	Any cutting of trees within the buffer zone will conflict with this objective, therefore, tree removal is not approved by the resource agencies.	<i>Page 8 of the order modifying and approving the T&amp;E Plan states that "tree removal occurs only if required for disease control or public safety" and occurs only in consultation with the FWS and MDNR because both super canopy and understory trees are part of the existing habitat necessary to support the bald eagle. This discussion is in the context of the selective cutting of trees during timber harvesting only. None of the activities proposed in the SMP create disturbance of that magnitude created by timber harvesting.</i>
Protection of the shoreline from excessive development	Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species.	<i>FERC licenses give licensees the authority to grant permission for certain types of use and occupancy of project lands and waters. UPPCO's development of its SMPs articulates and</i>		

**Table 3. Boney License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP**

License Article	Plan Objectives	Conflict	Response
412	Recreation Plan Development of agreed upon recreational facilities/improvements	UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Form 80 recreational use and further deterioration of environmental impacts associated with increased non-project use of project lands.	<i>formalizes permissible activities and prohibitions on project lands and waters. The SMPs were designed to be consistent with, and in many instances to further, the goals and objectives of the project licensing and approved plans. UPPCO has modified the schedule for developing recreation improvements to indicate those improvements that are currently needed and those that may be needed as recreation demand increases. Additionally UPPCO has proposed minimum enhancements that include a trail (developed in consultation with the agencies), a historic interpretive sign, a bathymetric map and a recreation brochure.</i>
	Project lands are to be managed to provide both recreation and protection of natural resources	The proposed recreational enhancements would degrade from the natural beauty of the project and are inconsistent with the approved plan	<i>UPPCO has proposed minimum enhancements that include a trail (developed in consultation with the agencies), a historic interpretive sign, a bathymetric map and a recreation brochure. These proposed recreational enhancements will not degrade from the natural beauty of the project, but will enhance the recreational experience for the general public. These uses are consistent with achieving an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters.</i>
413	Land Use Management Plan Protect the natural and scenic character of the project shoreline by limiting development and minimizing the views to timber harvest areas	The proposed non-project uses would degrade from the natural beauty of the project and are inconsistent with the approved plan	<i>Timber harvesting is no longer allowed within the project boundary. The SMPs are designed to limit development of the project shoreline, therefore protecting the natural and scenic character. The uses proposed in the SMP are consistent with achieving an appropriate balance between development, public and private recreation and the preservation of important natural, environmental, or cultural features of the project lands and waters.</i>
	Protect sensitive wildlife habitat and species	Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species and their habitat	<i>The pathways areas have been located to avoid impacts to sensitive areas. Conservation areas have been placed around sensitive wildlife habitat areas.</i>
	"No-harvest" policy for timber within the buffer zone. Individual trees that pose a safety hazard, interfere with project operations, or detract from the aesthetic qualities of the site may be removed in consultation with the resource agencies.	UPPCO proposes to exclude Boney Falls Impoundment from the Land Use Management Plan. We do not concur with the exclusion of Boney Falls impoundment from the Escambia Project Land Use Management Plan for several reasons. There is no need for UPPCO to amend this license article to prohibit timber harvesting practices, since harvesting within the buffer is already explicitly prohibited.	<i>UPPCO proposes to amend the Land Use Management Plan to specifically exclude the Boney Falls impoundment from the Plan because the proposed SMP prohibits all timber harvesting within the project boundary of the Boney Falls Development. The existing Land Use Management Plan allows for timber harvesting on all project lands outside the 200-foot buffer zone.</i>
	to limit the development of structures, such as boat docks, and other structures, that are proposed in the buffer zone.	Certain non-project uses of project lands, such as docks and covered boat docks, are proposed and are consistent with the approved plan.	<i>The license does not prohibit the construction of public, private, and other privately owned structures, such as boat docks, on the project lands, as long as they comply with the terms and conditions established by the license, are compliant with Article 414, Article 415 of the license to grant permits on a case-by-case basis prior to Commission approval for (1) non-commercial pier, landings, boat docks, or similar structures and facilities that can accommodate no more than ten vessels at a time and where said facility is intended to serve single family type dwellings. The uses being proposed are consistent with the approved plan.</i>
416	Wildlife Management Plan No additional or extensive disturbance shall occur within the buffer zone	Non-project use of project land will result in increased disturbance of the buffer zone	<i>Page 4 of the Wildlife Management Plan states: "The license has designated a 200-foot buffer zone around each of the project impoundments as areas within which no additional, extensive disturbance will occur." The SMP does not propose any additional, extensive disturbance. There are no non-project uses being proposed in areas with existing wildlife structures.</i>
	Improve land and waterfowl nesting opportunities through installation and maintenance of nesting structures.	Existing nesting structures may be compromised by proposed non-project uses of project land	
416	Wildlife Management Plan Minimize or restrict access through areas where special concern resources occur	Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species	<i>The locations designated for proposed non-project uses have been located to avoid impacts to sensitive areas. Conservation areas have been placed around sensitive wildlife habitat areas.</i>
	Minimize disturbance by human activity	Non-project use of project land will result in increased human	<i>Timber harvest activities have been eliminated and temporary logging roads will be closed thus</i>

Table 3. Boney License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP			
License Article	Plan Objectives	Conflict	Response
	<p>within the Boney Falls and Dam No. 3 area to protect raptor and waterfowl nesting success and feeding</p> <p>Protection of wetlands from human development</p>	<p>use and less protection for raptor and waterfowl nesting and feeding</p> <p>Not all environmentally sensitive areas, including wetlands, are protected by the proposed shoreline classification</p>	<p>Eliminating the disturbance from vehicles or ATVs as specified in the plan</p> <p>This statement can be found on page 6 of the plan. The full statement is: "a benefit of implementing the plan is protection of Wetlands as project limits to an extent consistent with purple loosestrife Eurasian water milfoil invasion, and human development." The restrictions for limited pathways, limited trails, and limited dock structures provide adequate protection of the wetland from woody encroachment, purple loosestrife Eurasian water milfoil invasion, and human development</p>
	<p>No trees shall be removed from the buffer zone without prior consultation with the resource agencies. Trees should only be removed if required for disease control or public safety.</p>	<p>Any cutting of trees within the buffer zone will conflict with this objective, therefore, tree removal is not approved by the resource agencies</p>	<p>Though this statement is contained in the Land Management Plan, the SMPs do not allow timber harvesting within the project boundary and trimming standards in the SMPs are more restrictive than those allowed within the Threatened and Endangered Species Plan, allowing only the cutting of those trees less than 2 inches in diameter and limbs within 8 feet of the ground. Page 8 of the order modifying and approving the T&amp;E Plan states that "tree removal occurs only if required for disease control or public safety and occurs only in consultation with the FWS and MDNR because both super canopy and understory trees are part of the existing habitat necessary to support the bald eagle. This discussion is in the context of the selective cutting of trees during timber harvesting only. None of the activities proposed in the SMP create disturbance of a magnitude equal to or exceeding that associated with timber harvesting</p>



Table 4. Cataract License Plan Article	Articles, Management plan objectives, and potential conflicts with activities as proposed in the draft SMP	Conflict	Response
404	<p>Water Quality Monitoring Plan</p> <p>Monitor DO and temperature every 5 years for the duration of the license</p>	<p>An amendment to the plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of the project lands and water.</p>	<p>Recreation use on the projects will increase gradually over the next ten to fifteen years. The continued closure of access to National Forest Lands, which is exhibited in the Ottawa National Forest 2006 Forest Plan Revision, will also lead to an increase of recreation pressures of project waters. This increase of use will also occur at non project lakes that provide boating access. None of the impoundments are currently required to be monitored and, to UPPCO's knowledge no other area lakes that may experience an increase in recreation pressures have been requested to monitor water quality.</p>
408	<p>Noxious Plant Control Plan</p> <p>Monitor and control for Eurasian water-milfoil and purple loosestrife</p>	<p>An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies.</p>	<p>UPPCO will develop a program to educate the public, and to reduce the spread of nuisance species that have potential to be introduced in the project property and impoundments or have the potential to be spread to other areas outside the project through uses of the project. UPPCO will focus only on species for which the resource agencies have educational materials. In the future, UPPCO is willing to monitor additional nuisance species identified by the agencies, provided they have effective, economical and reasonable control techniques to eradicate the species from the reservoir as demonstrated through successful programs. An amendment to the Noxious Plant Control Plan is not necessary. Additional measures will be implemented to monitor the SMP.</p>
410	<p>Wildlife Management Plan</p> <p>Protection of environmentally sensitive areas by 1) forest habitat management and development, 2) waterfowl management, and 3) endangered or sensitive species management.</p> <p>Protect sensitive species and habitat.</p> <p>Maintain the forest with a diversity of vegetation types and age classes and provide cavity nesting and super canopy trees.</p> <p>Manage buffer zone for crows with a natural plant succession.</p> <p>Improve land and water quality by restoring opportunities through restoration and maintenance of nesting structures.</p>	<p>Not all environmentally sensitive areas, including wetlands and high value forest types, are protected by the proposed shoreline classification.</p> <p>Non-project use of project land will result in negative impacts to the buffer zone and less protection for sensitive species.</p> <p>Any cutting of vegetation within the buffer zone will conflict with this objective.</p> <p>Non-project use of project land will conflict with the intent of this plan.</p> <p>Existing nesting structures may be compromised by proposed non-project uses of project land.</p>	<p>All sensitive resources within the project boundary have been placed into the SMP conservation classifications. Permitted activities within the conservation classifications that have the potential to impact wetlands are limited to the creation of the public recreational trail being requested by the public, and the limited placement of seasonal access ramps to docks.</p> <p>The pathways areas have been located to avoid impacts to sensitive areas. Sensitive species and habitat have been placed into the SMP conservation classifications.</p> <p>To maintain a diversity of vegetation types and age classes, some sort of forest management activity is required. Page 3 of the plan states "A variety of silvicultural techniques must be used to accomplish this forest diversity. Timber harvest of mature trees is one silviculture method that will be used. Timber harvest of young trees within the project is inconsistent with this objective; however, timber harvesting has been eliminated on all project lands.</p> <p>There is no "old growth" requirement in the Wildlife Management Plan. However, as part of the SMP, UPPCO has extended management deemed necessary by the resource agencies to have natural resource areas comparable to those areas that are not areas within the project area, existing or planned, to provide habitat.</p> <p>There are no nesting structures being proposed in areas with existing wildlife structures.</p>
411	<p>Land Management Plan</p> <p>Intent of plan is to establish policies for existing and future management of the shoreline buffer and project lands.</p> <p>Project lands will be managed for old growth and natural plant succession, with any management within the buffer zone occurring only if approved by the actual resource agencies.</p> <p>Fruit and mast bearing trees and shrubs will be retained for the enhancement of wildlife, lowland stands of conifers for winter cover of white tailed deer will be maintained, and red owl, wolf trees, and den trees will be</p>	<p>Because surrounding land use is expected to change from forested to residential, the plan does not take into account new threats to terrestrial resources and is no longer valid.</p> <p>Non-project use of project land will result in negative impacts to the buffer zone and are not approved by the resource agencies.</p> <p>UPPCO's proposal to allow removal of vegetation to install electrical lines and placement of walking paths is in conflict with the intent of this plan. Protection of terrestrial resources should be maintained.</p>	<p>There will not be any residential development within the project boundary and the plan only allows uses of project lands.</p> <p>There is no "old growth" requirement in the Wildlife Management Plan. However, as part of the SMP, UPPCO has extended management deemed necessary by the resource agencies to have lower level preserving or enhancing forest resources to the entire project with the exception of existing recreation and operation areas.</p> <p>Page 12 of the plan states that "Fruit and mast bearing trees and shrubs which provide food for wildlife, will be retained when possible on UPPCO-owned lands within the project buffer zone. Lowland stands of conifers for winter cover of white tailed deer will be maintained. Hollow, wolf trees, and den trees will be retained when possible on UPPCO-owned lands within the project boundary." The SMP includes language to protect fruit and mast bearing trees and has</p>

Table 4. Cataract License Articles, Management plan objectives, and potential conflicts with activities as proposed in the draft SMP				
License Article	Plan	Objectives	Conflict	Response
		<p>retained.</p> <p>The majority of the shoreline is in a natural state and all lands are open for public use. As a result, the lands are managed to provide both recreation and protection of the natural beauty of the area.</p>	<p>Use of the Buffer Zone for hunting would be essentially eliminated in areas adjacent to private lots, since Michigan Law prohibits discharging a firearm for hunting within 450 feet of an occupied residence.</p>	<p>eliminated timber harvesting and the installation of electrical lines within the project boundary. Due to the distance of the project boundaries from the waters of the river, the majority of the lands within the project boundary will remain unaffected by any of the activities that may occur on land outside of the project boundary. Therefore, this statement is not true.</p>
413	Recreation Plan	<p>Development of agreed upon recreational facilities and improvements.</p>	<p>UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements now, enhancements should occur only if needed based on Fortn 50 recreational use and further determination of environmental impacts associated with increased non-project use of project lands.</p>	<p>UPPCO has revised the SMP and modified the schedule for developing recreation improvements for the purposes of developing an implementation schedule for recreational development. UPPCO has concentrated on providing amenities to existing formal public recreation facilities in order to upgrade and make the existing facilities more user-friendly and accessible, in some cases barrier free. In addition, UPPCO considered public requests by regular users and considered levels of public and private recreational use associated with proposed non-project use of project lands.</p>
		<p>Project lands are to be managed to provide both recreation and protection of the natural beauty of the area.</p>	<p>The proposed recreational enhancements would degrade from the natural beauty of the project and are inconsistent with the approved plan.</p>	<p>The only recreational enhancement being installed is a public trail as part of a trail network around the impoundment. UPPCO will site the public trail to minimize impacts to sensitive environmental resources in consultation with the agencies. This proposed recreational enhancement will not degrade from the natural beauty of the project.</p>

**Table 5. Bond Falls License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP**

License Article	Plan	Objectives	Conflict	Response
409	Water Quality Monitoring Plan	Monitor DO and temperature for initial 3-year periods (subsequent monitoring as needed based upon results for first 3 years)	An amendment to the plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of project lands and water.	<i>As previously stated, recreational use at the project is anticipated to increase over the next ten to fifteen years, with or without implementation of UPPCO's SMP. The continued closure of access to National Forest lands, which is exhibited in the Ottawa National Forest 2006 Forest Plan Revision, will also lead to an increase of recreation pressures of project waters. This increase of use will also occur at non-project lakes that provide boating access. None of UPPCO's impoundments are required to be monitored and to UPPCO's knowledge no other area lakes that may experience an increase in recreation pressures have been requested to monitor water quality. While the environmental impact analysis in the SMP determined that there could be moderate long term impacts to water quality, through the introduction of additional nutrient supplies and unambushed fuel (as a result of the operation and maintenance of additional boats on the impoundment), no amendment to the Water Quality Monitoring Plan is needed.</i>
411	Nuisance Plant Control Plan	Monitor and control for nuisance plant species as appropriate.	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g. garlic mustard, curly leaf pondweed) when requested by the resource agencies.	<i>In a continuation of the SMP, UPPCO proposes to conduct additional herbicide treatments on nuisance species and to monitor additional nuisance species throughout the agency's protection area. We have effective, economical and reasonable control techniques demonstrated through the agency's own control programs. An amendment to the Nuisance Plant Control Plan is not needed as these proposed additional measures will be implemented through the SMP.</i>
413	Buffer Zone Plan	Prohibit removal of vegetation in the Buffer Zone to allow old growth forest to continue to develop.	Shoreline Buffer Zone is fragmented by numerous development areas which may threaten the integrity of the old growth forest in this area. Proposed cutting of vegetation and trenching within the Buffer Zone for pathways and public trails would conflict with this objective.	<i>UPPCO has very specific design criteria for the installation of limited public pathways and a single public trail through project land. These criteria were developed to protect the integrity of the resources surrounding the project. Implementation of the SMP does more to move toward old growth management on all project lands than the current buffer zone plan. UPPCO is proposing to amend the Buffer Zone Plan to include revised figures that illustrate the increase in lands that would be subject to the Buffer Zone Plan if the SMP is approved. This increase of forest that will be managed for old growth forest characteristics will more than offset the minimal impacts associated with the paths that will provide access to the project waters. UPPCO has revised the SMP to eliminate the installation of background electrical supply lines. There will be no forest habitat fragmentation as a result of pedestrian paths. UPPCO has developed very stringent design criteria that will ensure there is no track in the forest canopy and no tree regeneration.</i>
	Provision of water for riparian development		Newly proposed riparian sensitive areas, including seasonal, are protected by the proposed shoreline class location.	<i>The riparian area and the shoreline sensitive areas are protected by the approved Buffer Zone Plan. A riparian area is any area that is adjacent to a water body and is subject to the "riparian" provisions of the SMP. If the categories of certain wetlands are prevalent in the riparian or existing recreation areas and in a wetland area, they are not necessarily considered sensitive or unique and may not be in an area that will be impacted.</i>
	Plan complements other license plans such as Wildlife Plan and Fish Species Plan, by providing for increased protection and enhancement of wildlife habitat along the project shoreline.		New proposed recreational enhancements, general use formal recreation areas, and pathway access areas may conflict with those intended by encouraging minimal use of shoreline areas that could result in disturbance to sensitive wildlife species.	<i>The buffer zone has been increased by approximately 5.7% at the Bond Falls impoundment and 16.9% at the Victoria impoundment over the current license's Buffer Zone Plan. This increase in Buffer Zone is the subject of the request for amendment to the Buffer Zone Plan that is included in the SMP. SMP provides restrictions, development prohibitions, and prohibitions on the commercial harvest of timber in Conservation Areas will provide an increased benefit to terrestrial and aquatic life. The shoreline areas of Bond Falls along recreation areas provide public recreation use. Existing formal and informal shoreline recreation facilities have been considered in order to concentrate intensive or frequent recreational use activities in areas most suited for this type of use. Normal day use (no overnight camping) of shoreline areas is a proven and expected use of a FERC project and such use will not impact sensitive habitats because paths</i>

Table 5. Bond Falls License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP				
License Article	Plan	Objectives	Conflict	Response
				access will not be located in sensitive habitats and public trail planning will be conducted through consultation with the appropriate agencies.
		Plan allows walk-in public access to the Buffer Zone for activities such as sightseeing, hiking, hunting, and fishing	As proposed, the SMP would eliminate most general walk-in access to project lands, unless such access was via a designated pathway	There are no restrictions or prohibitions in the SMP that attempt to limit public access to project lands and water use to eliminate most general walk-in access to project lands. Access to project lands by the public will continue to be permitted.
414	Wildlife and Land Management Plan	Protect Common Loons and their habitat. Designate islands open closed to camping, so that some islands can be protected as loon nesting habitat. Place loon nest platforms at Bond Falls (2) and Victoria (1).	Some areas of high quality loon habitat are not adequately protected (e.g., near Access Pathway areas and cluster docks). East side campground loop is proposed for peninsula identified by E-PRO as suitable loon nesting habitat. Areas identified for placement of loon nest platforms are not adequately protected from human disturbance. Large increase in watercraft on the flowages may adversely affect loons; no analysis done to determine effects. Increased human use of shoreline at Access Pathway areas, new recreation areas, and trails may result in disturbance to nesting loons. As recommended in E-PRO's Environmental Assessment, observations and studies of common loons at Bond Falls impoundment should continue. The continued studies will allow for protection of preferred habitat, identification of any limiting factors, and form the basis for recommending any enhancement measures necessary to insure future nesting success.	Based upon our consultation with Christie Deloria (USFWS), not all potential loon habitat requires protection. In general, literature has shown that increased human pressure may affect loon nesting, however, it has been documented that some individual loons can acclimate to human activity over time, and can nest successfully under moderate levels of human pressure (McIntyre and Barr, 1997; Hembinger et al., 1983). This situation is common in many lakes of the Midwest that receive boating pressures.  The non-project use of project lands will not be immediate and will occur over a period of time. Increased human pressure may also come from a general increase in recreation use of the impoundment with or without implementation of the SMP.  The Assessment of the Recreation, Wildlife, Loon, and Aesthetic Resources of the Bond Falls Impoundment (E-PRO 2006) does not recommend that the impoundment should continue to be monitored. Of the three habitat areas identified as best available habitat, a majority have been placed into the SMP classification of conservation to ensure adequate habitat is protected for future nesting sites!
		Install osprey nest platforms at Bond Falls and Victoria. Manage osprey habitat consistent with USFS osprey management guidelines.	No protection zones identified for area where osprey nest platform is to be located.	The draft SMP (and the current SMP) classifies the area along shoreline where the agencies have identified the location for the osprey nest. This area has been placed in the SMP classification of conservation.
		Plan complements other license plans such as Buffer Zone Plan and T.E. Species Plan, by providing for increased protection and enhancement of wildlife habitat along the project shoreline.	New proposed recreational enhancements, general use formal recreation areas, and pathway access areas may conflict with this intention by encouraging human use of shoreline areas that could result in disturbance to sensitive wildlife species.	The only new proposed recreation site is the public trail, which will be developed in consultation with the agencies. The remainder of the areas where recreation enhancements are proposed (General Use Formal Recreation Area) are at existing recreation sites within the Bond Project that are already receiving recreational use. Sensitive habitats have been placed in the SMP classification of conservation.
415	Threatened and Endangered Species Plan	Protect Threatened and Endangered Species from activities on project lands and waters	Several proposed non-project uses of project land, including construction of new recreation areas, pathways, docks, trails may conflict with this objective	The pathways have been located to minimize impacts to sensitive areas. This SMP was designed to be consistent with, and in many instances to further, the goals and objectives of the overall requirements of the project's license. With very limited exception, sensitive and unique habitats areas have been placed in the SMP classification of conservation.
		Establish Bald Eagle management areas which include protection of nesting, roosting, and feeding areas.	Not all existing and potential nesting, roosting, and feeding areas are included within Conservation Area. The Conservation Area is fragmented by numerous areas of heavier human use (access pathways, general recreation areas) that may adversely affect eagles.	With respect to "fragmentation", the areas so designated for recreation (General Use Formal Recreation Area) are currently providing recreation opportunities and recreational use does occur there. The Bald Eagle plan states on pg. 3, Section 3.1.1: "If a pair of eagles chooses to establish a new nest in an area already receiving human use resulting from project operations or recreation facilities, the human activities will continue to occur, but will not be expanded, and will not be restricted during the critical period." Furthermore, not all potential nesting, roosting, and feeding areas for bald eagles need to be placed in conservation areas.
		Manage Shoreline Buffer Zone as old growth.	Shoreline Buffer Zone is fragmented by numerous developed	Currently, there is no old growth forest as this area was harvested in the first half of the twentieth

**Table 5. Bond Falls License Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP**

License Article	Plan	Objectives	Conflict	Response
		forest, to enhance eagle habitat	areas which may threaten the integrity of the old growth forest in this area. Proposed cutting of vegetation and trenching within the Buffer Zone for pathways and public trails would conflict with this intention	<i>continues and has been harvested since. The objective of the Buffer Zone Plan is to manage certain areas to develop old growth characteristics. The increase of forest that will be managed for old growth forest characteristics will more than offset the paths that will permit access to project waters. Additionally, UPPCO has revised the SMP to eliminate the installation of underground electrical supply lines.</i>
		Close temporary roads that access protect lands to prevent human disturbance of eagles, ospreys, gray wolf. Manage road densities so that vehicle access is minimized.	Non-project uses of project land appears to conflict with this intention. See statement on p. 73 of the SMP indicating that existing roads within the project boundary will be left open and maintained to County specifications.	<i>All roads identified within the SMP for continued use are not temporary roads, and therefore, are not subject to closure. Since no timber harvesting will be permitted, existing temporary logging roads/trails will be closed to vehicular access.</i>
		Do not construct buildings along the shoreline near eagle feeding areas	Facilities planned for "recreational enhancements" may conflict with this intention	<i>Page 5 of the Threatened and Endangered Species Plan - Bald Eagle Management states "additional construction of buildings along the shoreline will not occur in feeding areas unless required for project operations, or enhancement or maintenance of existing public use areas." In the event that new construction or grading of facilities near the lake water is required, UPPCO will consult with the USFWS and MDNR early in the planning process. The only new buildings being proposed include a park pavilion and a shower house. Both of these are located at existing recreation facilities where human activity is already occurring.</i>
		Designate and relocate camping areas on Bond Falls and Victoria Reservoirs to concentrate human activity and minimize human disturbance of FLE species	Although the SMP does consolidate camping areas as required, new proposed recreational enhancements, general use formal recreation areas, and pathway access areas may conflict with this intention by encouraging human use of shoreline areas and result in disturbance to eagles and other FLE species	<i>The only new proposed recreation site is the public trail, which will be developed in consultation with the agencies. The remainder of the areas where recreation enhancements are proposed (General Use Formal Recreation Areas) are at existing recreation sites within the Bond Falls Project that are already receiving recreational use.</i>
416	Recre. Foot Plan	Consolidate campground and other concentrated recreational activity to two main campground areas east side and west side, so that most of the project shoreline can be retained as wildlife habitat for eagles, ospreys, and so that old growth forest would be allowed to develop naturally.	Numerous new proposed recreation enhancements, pedestrian paths, trails, and docks along the shoreline would conflict with a major objective of this plan, which is to consolidate recreational use into two main campground areas and thus retain most of the shoreline as wildlife habitat for species that cannot tolerate high levels of human activity (eagles, ospreys, loons). Adverse impacts to old growth forest may also result.	<i>Recreation use of a FERC hydroelectric project is a prime consideration at a licensed project. The only new proposed recreation site is the public trail, which will be developed in consultation with the agencies. The remainder of the areas where recreation enhancements are proposed (General Use Formal Recreation Areas) are at existing recreation sites within the Bond Falls Project that are already receiving recreational use.</i>
		Install gates on existing roads to dispersed campsites to reduce human disturbance to wildlife	SMP would eliminate most general walk-in access to project lands, unless such access was via a designated pathway. Use of the Buffer Zone for trenching would be essentially eliminated in areas adjacent to private lots, since Michigan Law prohibits discharging a firearm for hunting within 450 feet of an occupied residence.	<i>Recreation use of a FERC hydroelectric project is a prime consideration at a licensed project. The only new proposed recreation site is the public trail, which will be developed in consultation with the agencies. The remainder of the areas where recreation enhancements are proposed (General Use Formal Recreation Areas) are at existing recreation sites within the Bond Falls Project that are already receiving recreational use.</i>
		Specify the number, and types of recreational facilities to be constructed or upgraded.	UPPCO's proposal appears to conflict with this intention. See statement on p. 74 of the SMP indicating that existing roads within the project boundary will be left open and maintained to County specifications.	<i>UPPCO has revised the SMP and modified the schedule for developing recreation improvements. For the purposes of developing an implementation schedule for recreational development, UPPCO has estimated a providing limitation to providing formal public recreation facilities, in order to upgrade and make the existing facilities more user friendly and accessible in some cases barriers free. In addition, UPPCO considered public trails to be regular users and considered levels of public and private recreation use associated with proposed non-project use of project lands.</i>

Table 6. Prickett License Article	License Plan	Articles, Management Plan Objectives, and potential conflicts with activities as proposed in the draft SMP	Conflict	Response
410	Water Quality	Monitor DO and Temp at locations and frequency specified in the Plan	An amendment to the plan will be needed to address water quality issues associated with increased development adjacent to the project and increased recreational usage of project lands and water	Recreation use on the projects will increase gradually over the next ten to fifteen years. The cumulative effects of increases in recreation on project lands, which is covered in the Ottawa National Forest 2016 Forest Plan Revision, will also lead to an increase in recreation pressures of project waters. This increase of use will also occur at non-project lakes that provide boating access. None of the impoundments are currently equipped to be monitored for TSS. UPPCO would like no other area lakes that may experience an increase in recreation pressures have been requested to monitor water quality. See also discussion on water quality in above letter.
412	Noxious Plants Monitoring Plan	Monitor and control for Eurasian watermilfoil and purple loosestrife	An amendment is needed to include UPPCO's proposed nuisance species education program, as well as monitoring and control of additional nuisance species (e.g., garlic mustard, curlyleaf pondweed) when requested by the resource agencies	UPPCO will develop a program to educate the public and to reduce the spread of nuisance species that have potential to be introduced in the project property and impoundments or have the potential to be spread to other areas outside the project through use of the project. UPPCO will focus only on species for which the resource agencies have educational materials. In the future UPPCO is willing to monitor additional nuisance species identified by the agencies, provided they have effective, economical and reasonable control techniques to exterminate the species from the reservoir demonstrated through their own control programs. An amendment to the Noxious Plant Monitoring Plan is not necessary as these additional measures will be implemented through the SMP.
414	Bald Eagle Management Plan	Designate bald eagle management areas using criteria identified in the Plan and protect these areas from habitat alteration and human disturbance	SMP appears to locate some Access Pathway areas, trails, docks, and other developments within eagle management areas. Roads accessing eagle management areas are to be closed, per direction in the Plan, but this is not addressed in the SMP. Proposed removal of flooded stumps and snags may negatively impact fish habitat and fish populations which are important as forage for bald eagles.	UPPCO has revised the SMP to eliminate view enhancement corridors within the project boundary. As additional measures to avoid potential disturbance to bald eagles nesting, perching and/or feeding within project boundaries, UPPCO will make educational materials available to the public that will emphasize the importance and sensitivity of nesting and feeding areas and encourage cooperation in avoiding disturbance to the eagles. In addition, informational buoys will be placed at the outer edges of primary nesting areas (area consisting of a 330 foot radius around an existing eagle nest that has been active within the last five years) that extend into the impoundments, to discourage boaters from approaching active nests. The SMP has been further revised to eliminate the proposal for stump removal. The SMP specifically prohibits the cutting of super canopy trees. In addition, plenty of roost trees will be available through the future prohibition of timber harvesting making no single roost tree critical.
		Identify "critical eagle roosts" within project boundary and protect these areas from human disturbance	Some "bald eagle perch trees" are identified by F-PRO, but critical eagle roosts are not identified in the SMP. These areas should be identified to avoid locating human use areas, pathways, docks, etc. in areas intended for protection of critical eagle roosts.	
414	Comprehensive Wildlife, Land Use, and Recreation Management Plan	Retain coniferous trees and/or shrubs as screening for eagle forage areas to buffer eagles from potentially disturbing human activity	Removal of vegetation for enhanced view areas, pathways, and other purposes on project lands may conflict with this intention.	Page 4, number 10 of the Bald Eagle Management Plan states "UPPCO will cooperate with MDNR and FWS to provide coniferous trees or tall shrubs as additional screening for foraging areas to buffer eagles from potentially disturbing human activity." The SMP has been revised to eliminate view enhancement corridors within the project boundary. The SMP allows only those trees under 2 inches in diameter and limbs within 8 feet from the ground to be cut for pathways.
414	Comprehensive Wildlife, Land Use, and Recreation Management Plan	Close unnecessary roads accessing project lands to protect gray wolf habitat	No discussion of gray wolf habitat within the SMP, including management of roads accessing project lands	On page 2 of the Order Modifying and Approving the Comprehensive Wildlife, Land Use, and Recreation Management plan the Plan states "The closure of unnecessary logging roads for the protection of the gray wolf". None of the existing roads identified in the SMP within the Project boundary are unnecessary logging roads.
		Place two osprey nest platforms, and protect nesting ospreys from human disturbance	UPPCO did not discuss the location of these two osprey platforms or how they will be protected from human disturbance.	The SMP has been revised to reflect the potential locations of the two osprey platforms. These platform sites will be located in conservation areas.
		No timber harvest activities, including single tree selection, are to occur within the Shoreline Buffer. According to the plan, by not allowing cutting, these lands would	UPPCO proposes to remove vegetation to create "enhanced view areas" within the Shoreline Buffer Zone. Removal of vegetation for paths, trails, and other purposes is inconsistent with the intent of Article 414.	The SMP has been revised to eliminate enhanced view areas, and timber harvesting activities including single tree selection harvesting have been eliminated from the plan. The SMP allows only those trees under 2 inches in diameter and limbs within 8 feet from the ground to be cut for pathways.

Table 6. Prickett License Article	Plan	Objectives	Conflict	Response
		remain in their present condition and any old growth trees on these lands would continue to benefit the species that are dependent upon old growth areas. Maintain the forest with the diversity of vegetation types and age classes, including maintenance of deer cavity trees and shade intolerant forest habitat for grouse and deer.	Any cutting of vegetation within the buffer zone will conflict with the objective.	To maintain a diversity of vegetation types and age classes, some sort of forest management activity is required. Cutting is not inconsistent with this objective, however, the SMP has been revised to eliminate enhanced view areas and timber harvesting activities including single tree selection harvesting have been eliminated from the plan. The SMP allows only those trees under 2 inches in diameter and herbs within 8 feet from the ground to be cut for pathways. We have further modified the restrictions in the SMP to eliminate the cutting of wolf, fruit and mast bearing trees and Eastern Hemlock.
		Protection of wood turtles and their habitat through education, signage. Improve bird and waterfowl nesting opportunities through installation and maintenance of nesting structures. Protection of areas with unique aesthetic qualities.	Areas of confirmed wood turtle nesting are included in both General Use and Access Pathway areas. Existing nesting structures may be compromised by proposed non-project uses of project land. The highest scoring aesthetic habitats are not fully included in the Conservation Area.	UPPCO has already placed signs. The SMP has taken into account the locations of existing turtle habitat and modified the plan to protect additional turtle areas. Turtle habitat located within the General Use Plan and Access Pathway areas is not a habitat in areas of existing vegetation. The types of wildlife structures that have been previously affected by this project will not be expected to increase in number. The aesthetic study did not identify any unique aesthetic areas. UPPCO has included a study to determine the unique aesthetic values of the projects. The Environmental Report states that unique aesthetic features were identified at the projects. The highly rated aesthetic areas were determined to be no different than highly rated aesthetic areas that can be commonly found on other lakes within the U.P. The restrictions on the non-project uses of the project lands have been placed to protect the current aesthetics of the projects. These restrictions include low profile docks, elimination of permanent electric dock lighting, elimination of enhanced view areas, the use of muted colors for docks, and storage of docks only in areas so designated by UPPCO. All of which take into account the visibility of docks.
		Recreation Plan calls for the construction, operation, and maintenance of specific recreational facilities. Recreation Plan requires that recreational facilities be compatible with the natural and scenic character of the surrounding area.	UPPCO has proposed additional recreational enhancements in anticipation of increased use. Rather than propose recreational enhancements, enhancements should occur only if needed based on future recreational use and further determination of environmental impacts, such as additional signage, maintenance, and use of project lands. UPPCO proposes installation of docks, new pathway areas, enhanced view areas, and Access Pathway areas without any discussion or analysis of the effect of these structures and facilities on the natural and scenic character of the area.	UPPCO has revised the SMP and modified the schedule for developing recreation improvements. For the purposes of developing an implementation schedule for recreational development, UPPCO has concentrated on providing amenities to existing formal public recreation facilities in order to upgrade and make the existing facilities more user friendly and accessible. In some cases, however, to address UPPCO's concerns, UPPCO has proposed improvements to existing public recreation facilities that will be proposed through the use of project lands. The restrictions on the non-project uses of the project lands will be in place to protect the current aesthetics of the projects. These restrictions include low profile docks, elimination of lights, elimination of enhanced view areas, muted colors, and placement of docks, all of which take into account the visibility of docks. Section 9 of the SMP includes an analysis of the environmental impacts associated with implementation of the SMP.

**References:**

Heimberger, M., D. Euler, and J. Barr. 1983. The impact of cottage development on common loon reproductive success in central Ontario. *Wilson Bulletin*. 95: 431-439

Ottawa National Forest, Final Environmental Impact Statement, Record of Decision, 2006 Forest Plan and Associated Documents

McIntyre, J.W., and J.F. Barr. 1997. Common Loon. No. 313 *in* A. Poole and F. Gill, editors. *The Birds of North America*. Academy of Natural Sciences, Philadelphia, and American Ornithologists' Union, Washington, D.C.

**Att. 80: Kay L. Hoff**

I will not bother you with all the eloquent reasons you have already received from many, many of us who believe the development plans are in clear violation of the permits.

**Please NO DOCKS on any of the projects:**

P-#1864 Bond and Victoria Falls  
P-#2402 Prickett  
P-#10856 AuTrain  
P-#10854 Cataract  
P-#2506 Boney Falls

Kay L. Hoff  
1593 McKinney Lane  
Minocqua WI 54548  
715-588-1409

**Response:** *Opinion noted.*

**Att. 81: Douglas R. Cornett**

May 21, 2007

Dear Ms. Wolfe,

I am writing to comment on the Environmental Assessments for the AuTrain, Bond Falls, Boney, Cataract, Prickett, and Victoria Reservoirs.



The environmental assessments conducted by E-PRO, the firm hired by UPPCO/WPS, are inadequate. These assessments did not address the impact development would have on project lands, including wildlife species and water quality. Certainly the development will significantly alter the environment of the flowages in their present state. As an alternate member of the Eastern Focus Group, I was dismayed that UPPCO's representatives consistently evaded questions on water quality and the increased impacts that motorized use have on these flowages. In fact, UPPCO representatives arrogantly answered that development of "non-project" lands was not UPPCO's concern, and that State and local regulations would take care of impacts from the development and that "UPPCO will sell all non-project land."

Development of "non-project" lands will certainly impact water quality of "project" lands and water. Individual septic systems, groundwater removal from individual wells, runoff from new roads and driveways, runoff from lawns using fertilizers and pesticides, and motor boats spewing oil, gasoline and exhaust directly into reservoir waters, is not addressed anywhere in the Assessments. The cumulative impacts of all the elevated use of "non-project" and "project" lands should be addressed in the EA's.

**Response:** *It is important to note that UPPCO did not rely solely on the environmental reports in isolation of the volumes of recreation and environmental information that were collected during relicensing and information obtained through consultation with the general public and resource agencies. This information was used to evaluate the impacts that may result from implementation of the SMPs. Use of non-project lands is not the subject of this proceeding as non-project lands are not subject to the jurisdiction of the FERC.*

UPPCO never expressed any intention of selling or developing the lands during the time the last Environmental Impact Study was conducted and license renewal granted. So, the impact on project lands was never considered. The Federal Energy Regulatory Commission should order a new Environmental Impact Study to assess the full impact to the project lands by proposed development of "non-project" lands.

Naterra Land has not revealed development plans for any of the flowages. There must be full disclosure of their plans before the impacts can be fully assessed and any conveyances approved.

**Response:** *Opinion noted. See above response.*

UPPCO led people to believe the consolidation of campgrounds at Bond Flowages was for environmental reasons, while in reality an extensive land sale to a major developer was being planned. The decision to consolidate campgrounds was made without public input. Elimination of dispersed campsites and campgrounds redesign should be re-evaluated as part of the Shoreline Management Plan process.

I am opposed to any private lighted individual and cluster docks or viewing corridors at any of the flowages. None of these activities is consistent with the current license.

**Response:** *In response to comments from agencies and the public, UPPCO has revised the SMPs to, among other items, eliminate the installation of underground electric wiring, the installation of permanent dock lighting, and the installation of boat lifts. Additionally, the final SMPs have been revised to reflect a reduction in the total number of proposed boat slips and the elimination of enhanced view areas on some impoundments.*

A cost of service study should be conducted for each of the developments. The public needs to see both benefits and costs to the taxpayers because the pristine character of these flowages will be lost forever.

**Response:** *Comment noted.*

Thank you for considering these comments.

Sincerely,

Douglas R. Cornett  
P.O. Box 122  
Marquette, MI 49855

**Att. 82: Steve Garske**

Janet Wolfe  
Communications Manager  
UPPCO  
PO Box 130  
Houghton, MI 49931-0130  
iwolfe@uppcoco.com

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426  
(Comments sent via USPS)

Re: (UPPCO Shoreline Management Plans for FERC Projects P-1 864 (Bond and Victoria) P-2402 (Prickett) P-1 0856 (Au Train), P-10854 (Cataract), and P-2506 (Boney Falls)

Janet Wolfe:

I am writing to comment on the Draft Shoreline Management Plans (DSMPs) compiled by Upper Peninsula Power Company (UPPCO) and its holding company, WPS Resources. Because the SMPs for these projects are so similar to each other (much of the text of the 5 DSMPs is identical except for place names, etc.) my comments apply to all 5 unless otherwise noted

### PART 3. REGIONAL DEMOGRAPHICS

First I wish to point out that when it comes to the environmental impacts being considered in the DSMPs, UPPCO takes the attitude that it has the legal right to sell non-project lands for massive residential development and will do so, and that its only responsibility is to manage its project lands and hydroelectric projects in a way that minimizes the impact of this development. But the tone of Part 3 of each DSMP is quite different. There they list all manner of demographic statistics for each respective county, in an attempt to imply (without hard evidence) that developments proposed for non-project lands will greatly benefit these counties and local residents. The language may be subtle but the implication is clear. As with their press releases and public statements, UPPCO seems to hold the view that the impacts of the sale and development of its non-project lands on environmental and recreational resources should not be considered when evaluating these DSMP, while the economic (but not necessarily quality-of-life) impact of these sales and drastic changes in land use should be. UPPCO cannot have it both ways.

The Regional Demographic section for each DSMP points out that the lands surrounding these flowages are considerably more rural and "tend to have lower measures of economic well-being (for example, income and home value)" than the average for Michigan. At the same time a footnote at the bottom of the first page of Part 3 of each DSMP states that all these areas are socioeconomically similar to surrounding communities and the UP as a whole. UPPCO is therefore, in essence comparing the economic status of each impacted community to that of Michigan's Lower Peninsula, even though the LP has a much different history and economic structure. The DSMPs then state (again, without evidence) that the proposed developments will increase income, land values, the tax base, and at least by implication, the "quality of life" of current residents. But, despite these claims, **NO COST-BENEFIT STUDY HAS EVER BEEN CONDUCTED FOR ANY OF THESE PROPOSED DEVELOPMENTS.** Indeed it is my understanding that UPPCO, Naterra Land Corp., and/or a handful of individuals on a township board have actively opposed requests from citizens to do such studies. Obviously if property values go up, property tax revenues will also go up, but resident's property taxes will go up as well. With more full- and part-time residents more services such as road maintenance, police and fire protection, social services, etc. will be needed, and the cost to local governments for these services will also rise, eating up some or all of these additional tax revenues. The cost of living will increase. The public needs to be informed of these costs as well as the purported benefits of these proposed developments in order to make the best decisions for their communities. Because, if Naterra's development plans go through, the pristine nature of these flowages will be lost forever.

Certain regional economic interests, including the Western Upper Peninsula Planning and Development Regional Commission and the Ontonagon Conservation District, have submitted comments to FERC (posted on the FERC website) in favor of these developments, stating that UPPCO has solicited comment from local citizens, hunting and fishing interests, environmentalists, local governments, and representatives of state and federal land management agencies; What they don't mention is that, except for a few narrow groups within certain local governments, all of these groups are overwhelmingly **OPPOSED** to these proposed developments. This has been evident at all three UPPCO

"public meetings" I have attended, as well as from the majority of letters-to-the-editor in local newspapers, and in conversations with others around the western UP. And it is also demonstrated by a fall 2006 survey send to all Haight Township residents (posted on the FERC website at <http://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=1165071>) where 66% of respondents were against any development and 74% were against docks on Bond Falls Flowage!

Finally, the demographics sections of all 5 DSMPs assume that residents measure "well-being" and "quality of life" simply by the monetary value of their homes and bank accounts. They clearly imply that the rural nature of these areas is a negative, something I and I'm sure many other area residents would strongly disagree with. The DSMPs assert that because the local residents have a lower average income (along with a lower cost of living, but of course that's not mentioned) as compared to Lower Peninsula residents, the quality of life here is therefore low and that UPPCO's and Naterra's development plans are needed to "fix" this "inadequacy". This arrogant attitude has been obvious throughout UPPCO's and Naterra's push for development around these flowages. . . . .

**Response:** *Opinions noted.*

PART 6. ENVIRONMENTAL, RECREATIONAL, CULTURAL AND AESTHETIC RESOURCES

Given the massive development being planned by Naterra on nonproject lands, it seems clear that the following articles (and probably others as well) require amendment:

**Article 409, Water Quality Monitoring Plan (Bond/Victoria DSMP):**

This article states that water temperature and dissolved oxygen be monitored through 2007. Then UPPCO must consult with the BFTF and MDEQ on whether further monitoring is needed.

UPPCO claims that this Article does not require amendment. But ringing non-project lands around this flowage with roads, houses and accompanying lawns and septic tanks (in a rare detail on flowage development plans from Naterra, 424 houses have been proposed) will undoubtedly result in a significant lowering of water quality. If the proposed developments are implemented, Article 409 MUST be amended to include monitoring of additional relevant water quality parameters such as turbidity, total dissolved solids and fecal coliform bacterial counts. Otherwise this environmental issue could turn into a human health issue as well.

**Response:** *Under the proposed SMP, no amendment to the approved Water Quality Monitoring Plan will be necessary. Implementation of the SMP will have no impact on existing license water quality monitoring requirements.*

**Article 412, Noxious Plant Monitoring Plan:**

Part I of each DSMP states that a goal is to "Avoid the introduction and/or the spread of nuisance-invasive species". The signs and educational materials and activities that UPPCO proposed to use may help slow the influx of invasive species. But with massive development and the influx of people, vehicles, boats, etc., from areas where many of these species are already rampant, numerous non-native, invasive plants and animals ranging from aquatic and terrestrial pests to plant diseases and earthworms are sure to be introduced in spite of these efforts. (No terrestrial earthworms are native to the northwoods, and all the earthworms here today are introduced from Europe. These introduced earthworms have severe detrimental impacts on northern hardwood forests, because they consume the litter layer on which many forest plants and ground-living animals depend.) Invasive plants that should be monitored and controlled include curly-leaf pondweed (*Potamogeton crispus*), Eurasian bush honeysuckles (*Lonicera tatarica*, *L. morrowii*, and *L. x bella*), and common and glossy buckthorn (*Rhamnus cathartica* and *R. frangula*). Glossy buckthorn is already rampant around Victoria flowage and on surrounding Ottawa National Forest lands, where the ONF is working to control it. Helping with these efforts at least on its own lands would show that UPPCO was really concerned about invasive species around these flowages.

One of the most serious invasives likely to be introduced sooner or later is the zebra mussel (*Dreissena polymorpha*). This Eurasian mussel disrupts aquatic food chains and is notorious for fouling water intake pipes and other underwater equipment. In Canada: Ontario Hydro has reported zebra mussel impacts of \$376,000 annually per generating station (New York Sea Grant 1994, cited in US-ACE ERDC 2007).

Zebra mussels have already spread throughout the Great Lakes, and inhabit the Mississippi River and several northern Wisconsin and UP Inland lakes as well. With the expectation of greatly increased boat traffic to and from these flowages, it seems only a matter of time before this major aquatic pest is introduced to one or more of them. Once established, there is no known way of eradicating them. Presumably UPPCO would be actively working to prevent zebra mussels and other pests from gaining a foothold in these flowages, as for no other reason than to avoid potential problems with the operation of its hydroelectric facilities.

Part I of each DSMP states that UPPCO will do "routine inspections" to "monitor project lands and waters for introductions of terrestrial and aquatic invasive species as a result of development activities." Article 412 should be modified to address the almost certain influx of invasive species resulting from the proposed developments, and at least give a general outline of how UPPCO intends to carry out this monitoring. Invasive terrestrial plants (and certain aquatic plants, such as curly-leaf pondweed) can sometimes be eradicated from an area if infestations are caught early. Therefore comprehensive surveys for invasives should be conducted over the entirety of the project lands (and nonproject lands) at least once and preferably twice per year, to catch early-flowering species such as garlic mustard as well as plants such as the introduced buckthorns that are detectable well into the fall. If populations of invasives are found, strategies should be in place to control or eradicate them.

**Response:** *Opinions noted. UPPCO is willing to monitor additional nuisance species identified by the agencies, provided they have effective, economical and reasonable control techniques to extirpate the species from the reservoirs as demonstrated through*

*their own control programs. Under the proposed SMP, no amendment to the approved Nuisance Control Plan will be necessary. Implementation of the SMP will further UPPCO efforts to monitor and mitigate the spread nuisance plants.*

**Article 413, Buffer Zone Plan (Bond/Victoria, DSMP):**

Here UPPCO proposes to increase the amount of project lands to be managed for old-growth by 23.4% at Bond Falls and 20.1% at Victoria Flowage. But the license agreement for this project, states that "UPPCO commits to develop a buffer zone plan covering 'UPPCO-owned project lands' with a management objective to achieve old growth forest" (FERC 2003, Section 4E, page 12)! Therefore under the license agreement essentially ALL the forest around these flowages should be managed as old-growth, not just a portion of them.

**Response:** *As stated in the first paragraph of license article 413, "The Plan is to include a variable width buffer zone of 200 feet, adjacent to the Project impoundments". Through implementation of the Bond Falls SMP, however, SMP would increase the acreage of protected lands by approximately 57 % at the Bond Falls impoundment and 66.9 % at the Victoria impoundment when compared to the existing 200-foot buffer zone.*

**Article 414 (Bond/Victoria DSMP) Wildlife and Land Management Plan:**

UPPCO promises to classify 68.5% and 66.5% of lands at Bond Falls and Victoria, respectively, as "conservation" lands. But again, the license agreement states that the management objective for ALL the forested lands around Bond and Victoria is for management as old-growth! Furthermore, on Bond Falls in particular these so-called "conservation areas" do not consist of one or a few continuous blocks of habitat, but are instead broken into many, mostly small chunks of land scattered around the flowage. Many of these fragments are so small and isolated that they will be highly susceptible to the adverse effects of fragmentation, including colonization by invasives and disturbance from human activities, and will likely be of little conservation value.

**Response:** *See previous response.*

**Article 415, Threatened and endangered species protection and enhancement plan (Bond/Victoria DSMPS, with mention of Cataract DSMPS):**

This Article must specifically be amended to include assessment and protection of habitat for two state "Threatened" and one state "Special Concern" species. The first "Threatened" species is the merlin (*Falco columbarius*). This falcon was noted by UPPCO's consultant E-PRO (E-PRO Engineering and Consulting LLC, based in Maine) in their reports for Bond/Victoria and Cataract flowages (as discussed below), but not recognized as being a state-listed species (or at least E-PRO did not treat it as such in their report). The second "Threatened" species is a rare cisco, *Coregonus arteai* (also known as "lake herring"), which is found at least at Bond and Victoria Flowages, but also not considered in these reports or the DSMPS. "Special Concern" species not mentioned in E-PRO's surveys or the Bond/Victoria DSMP is a rare plant, autumnal water starwort

(*Callitriche kernaphroditica*), found in at least two locations on Bond Falls Flowage. (See the discussion under Part 7 below for additional information.) Again, these rare species are not considered in any of the relevant DSMPs, even though the license agreements require UPPCO to provide “Threatened, endangered, and sensitive species protection for all UPPCO-owned project lands” (FERC 2003 Section 4E, page 1.2)

Additional rare species probably inhabit these flowages and surrounding project lands as well. Comprehensive species surveys should be done by qualified individuals at the appropriate times of year, to insure that any additional rare and endangered species are protected in accordance with the license agreements.

**Response:** *UPPCO’s Threatened and Endangered Species Protection Plan pertains to the protection of threatened, endangered, and sensitive species, specifically, Bald Eagle, gray wolf, and Osprey. Under the proposed SMP, no amendment to the approved Plan will be necessary.*

#### **Article 416, Recreation Plan (Bond/Victoria DSMP):**

UPPCO suggests a number of amendments to this article, including an amendment to Sections 2.1 and 2.2, stating, “The recreational enhancements proposed for the Bond Falls Development are consistent with the policies, shoreline classifications, and development guidelines specified in the shoreline management plan for the Bond Falls Project and the objectives of the Buffer Zone Plan and the Threatened and Endangered Species Protection and Enhancement Plan. As discussed above, the DSMP for Bond Falls is clearly NOT consistent with the shoreline classifications and development guidelines because it did not consider three rare species documented on this flowage: the merlin, the lake herring and the autumnal water starwort.

Additionally, part (b) of this article clearly states that the licensee may only grant permission for “NON-COMMERCIAL piers, landings, boat docks, or similar structures” (capitalization added) without FERC approval. Thus the marina cluster docks for boat rental proposed for Bond at the Barclay boat landing, and at Victoria near the dam would appear to be prohibited without FERC approval, and would presumably require an amendment to this article to construct them.

**Response:** *UPPCO does propose to amend the Recreation Plan to include the recreational enhancements specified in the SMP. UPPCO has gone to considerable effort to produce SMPs that protect and enhance the project’s natural resources and the project’s primary function, the production of electricity, while providing public recreational enhancements and directing, managing and mitigating the impacts of anticipated development of non-project lands so as to complement or have neutral effects on those natural resources. The statement of “non-commercial piers” taken from the project license is truncated to change the meaning. In the license, the statement continues by clarifying a “non-commercial pier” is “intended to serve a single-family type dwelling.”*

#### **Article 419, Historic Resources Management Plan (Bond/Victoria DSMP):**

UPPCO claims that implementing the DSMP will have no effect on historic sites around the flowage. But with the attempted (and I believe license-violating) changes to the management of the project lands proposed in this DSMP, including moving campsites, replacing "old-growth" with developed "recreation areas", etc. revision of this article would seem to be in order.

**Response:** *Opinion noted, however, implementation of the SMP will have no impact on UPPCO's ability to manage historic properties consistent with the requirements of the approved plan.*

### **PART 7. SHORELINE MANAGEMENT PLAN CLASSIFICATIONS AND GUIDELINES**

Part 7 of each DSMPs once again asserts that UPPCO and E-PRO have conducted adequate environmental assessments of Bond, Victoria, and the other flowages. THIS IS FALSE. As pointed out in previous comments to FERC, the brief E-PRO surveys conducted in 2006 resulted in cookie-cutter "draft reports" which were very superficial and so much alike that even the names of the flowages were occasionally wrong.

**Response:** *The environmental reports do provide an adequate assessment of natural resources present at each of the reservoirs sufficient to characterize potential impacts as a result of proposed non-project uses of project lands. It's important to note that UPPCO did not rely solely on the environmental reports in isolation of the volumes of recreation and environmental information that were collected during relicensing and information obtained through consultation with the general public and resource agencies. Each SMP includes a comprehensive analysis of environmental impacts anticipated to occur as a result of implementation of the SMP. UPPCO utilized numerous FERC orders approving SMPs and non-project use of project lands as the template to describe the environmental impacts.*

In my 2006 comments to FERC I outlined why the E-PRO draft reports were grossly inadequate. Except for bald eagle a loons, the consultants seemed to be unsure of what they were looking for. Included in their bird sightings were reports of merlins (*Falco columbarius*) at Bond Falls, Victoria, and Cataract Flowages. At Victoria and Cataract Flowages, the E-PRO reports even mention seeing merlins acting *aggressively, indicating likely nesting nearby*. These consultants either didn't realize that the merlin was listed as "Threatened" by the State of Michigan if they did (as UPPCO claims page 18 of Attachment 71 of the DSMP, in response to my August 2006 comments to FERC, included in attachment 47) they inexplicably didn't mention that this bird was state-listed" or treat it as such in their report.

Aquatic plant "surveys" simply listed several genera common in lakes throughout the eastern US, e.g. *Potamogeton spp.*, *Najas spp.*, *Myriophyllum spp.*, etc., and apparently made no attempt to identify these plants to species, or to figure out if the plants they saw might be rare. Emergent and shoreline plants were, not surveyed, nor was there any attempt to assess how migratory birds might use these flowages.



In September 2006 I visited Bond Falls Flowage (for a canoe trip with others). There I came upon two populations of a rare aquatic plant the consultants had never mentioned: *Callitriche hermaphroditica* (autumnal water starwort). This plant is listed as "Special Concern" in Michigan. It was, locally common in shallow water near Little Falls on the south side of the flowage, and at the mouth of Dead Creek on the west side of the flowage. (I collected several specimens and sent them to the University of Michigan Herbarium in Ann Arbor, where the plant's identity was verified by the curator, Dr. A. A. Reznicek. I also, submitted a rare plant reporting form to the Michigan Natural Features Inventory in Lansing.) At both locations the populations were large and obvious enough that even if the consultants were only able to identify common genera of aquatics, they should have seen this plant, recognized that it was unusual, and used one of several widely available plant taxonomy works relevant to the region to figure out what it was.

Another rare species inhabiting Bond Falls flowage has been completely omitted from the DSMP for this flowage - a cisco, *Coregonus artedii* (also known as "lake herring"). In Table D-1 of Appendix D of the 2001 Draft Environmental Impact Statement for relicensing (FERC 2001), this fish is listed as inhabiting Bond Falls Flowage and two of three other large water bodies (Gogebic and Cisco Chain of Lakes) included in the Bond Falls project. The lake herring is listed as "Threatened" in Michigan (MNF 1999). Yet its presence is not mentioned anywhere in the DSMP or E-PRO's reports, so the potential impact of the DSMP on this state-listed species isn't considered.

**Response:** *Opinions noted. See above response.*

The Bond Falls Flowage map classifies both the areas with autumnal water starwort as "General Use / Formal Recreation Areas" where "recreational enhancements" would occur (Section 7-3). While these water starwort populations can presumably handle occasional foot or canoe traffic (and are mostly in too shallow of water to be significantly affected by motorboat traffic), they are likely to be significantly impacted by the "proposed recreational enhancements" planned for these areas. UPPCO's claim that these areas were "carefully planned based upon data collected as part of the 2006 environmental studies" is further evidence of the gross inadequacy of these studies.

**Response:** *Public use of these basins is expected to occur, with or without UPPCO's implementation of the SMPs. Regional growth over the next ten to fifteen years is expected to increase recreation use of the Bond Falls project due to the easy accessibility of project waters and the increasing inaccessibility of the National Forest Lands which is exhibited in the Ottawa National Forest 2006 Forest Plan Revision. The project license already requires improvements to project recreation facilities to address existing and future use. These improvements will inherently increase recreation use of the project. The recreation improvements originally proposed for the Little Falls and Dead Man's Creek area are now listed as potential sites for recreation expansion.*

According to the license agreement for Bond Falls Project (FERC 2003), UPPCO commits to a "land management plan that includes timber management, revegetation measures, and threatened, endangered, and sensitive species protection for all UPPCO-owned project lands.." (Section 4E page 12). I would assume that Special Concern species such as autumnal water starwort would fall under the term "sensitive species" used in the DSMP, and that the lake herring and the merlin (both protected under Michigan law) definitely would. Yet despite published reports of the presence of the latter two species by FERC and UPPCO's own consultants, respectively, no meaningful surveys have been conducted for them, and no consideration of them (let alone provisions for their protection) exists in the DSMPs for Bond Falls or (for the merlin) Cataract Flowages. What other rare, threatened, and endangered species inhabit these flowages and surrounding project lands? Nobody knows, because despite the 2006 E-PRO surveys, NO COMPREHENSIVE ASSESSMENT OF RARE PLANTS AND ANIMALS HAS BEEN DONE on, or around these flowages. . . . .

The DSMP goes on to state how the various layers of data were overlaid on arial photographs, and how the resulting map "served as the primary aid in the classifying Shoreline Management Plan areas (sic). But, much of the biological "data" collected by UPPCO and E-PRO is haphazard, incomplete, irrelevant, and/or superficial, any maps that rely on this "data" are presumably superficial and unreliable as well.

**Response:** *Opinions noted. See previous responses. The area where the merlin was identified at Bond Falls was placed in the Conservation-Limited Public Trail Classification.*

## **PART 9. ENVIRONMENTAL IMPACTS.**

The Bond Falls DSMP "contradicts the "Draft Environmental Impact Statement" (FERC 2001) as to how much wetland exists around this flowage. On page 54, FERC (2001) states that, "Although wetlands around Bond Falls Reservoirs are limited because of the seasonal drawdown, a narrow band of willows is present around the perimeter of the impoundment." In trying to justify siting some docks over shrub wetlands, the DSMP (page 9-3) states, "These wetlands exist throughout the majority of the Bond Falls impoundment and the 'wetland type is very common along the majority of the shoreline. Because this habitat type is very common at Bond Falls, and is only available to species such as fish the extent of impacts associated with seasonal dock placement in these areas is expected to be minimal". The curious "only available to fish" comment aside, is Bond Falls Flowage surrounded by a narrow band of willows, as stated in FERC (2001), or by extensive shrub wetlands as stated in the draft DSMP for this flowage?

**Response:** *Field surveys conducted by UPPCO's consultant documented the presence of extensive shrub wetlands at the Bond Falls impoundment.*

Page 9-1 of the Bond/Victoria DSMP states, "Moderate long-term impacts to water quality through the introduction of additional nutrient supplies in the form of uncombusted fuel could potentially result from the operation and maintenance of additional boats associated with the proposed docks." Since when has uncombusted fuel

been considered a nutrient? Also, the potential impact of uncombusted fuel is omitted from the DSMPs for the other flowages, even though new docks are proposed for all of them.

**Response:** *UPPCO has revised the SMP to read: "Moderate long-term impacts to water quality through the introduction of additional nutrient supplies and uncombusted fuel could potentially result from the operation and maintenance of ."*

## CONCLUSION

Article 422, Section (a) of the license for the Bond Falls Project (FERC 2003) and similar license articles for the other projects (see Part 4 of the corresponding SMPs) state that the "licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy; without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values (page 61). And Section (f) of each license states that " Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values."

The DSMPs for these projects would allow large private lighted docks (proposed for all the flowages), viewing corridors (Prickett, Cataract, Boney Falls and AuTrain)woody debris clearing from the flowage (Prickett), "Formal Recreation Areas" that slice up forest originally designated to be managed as old-growth(Bond-Victoria), and other alterations that do not fulfill the purposes stated to the flowages and adjacent project lands in the license agreements for these projects, including environmental and rare species protection, shoreline aesthetic values, and unfettered access for all of the public. And because UPPCO's management plans have changed so drastically from a few years ago, when they stated that they anticipated no significant development around these flowages, new Environmental Impact Statement should be completed for all of these flowages to ascertain the full impact of UPPCO's plans. This is necessary for many reasons, including to assess impacts to state-listed species, which UPPCO has undeniably so far ignored in its DSMPs and environmental "studies" for at least three of the flowages. Furthermore, Natetra Land Corp. has still not released specific plans for development around any of these flowages, making it impossible to fully judge what the true impacts of these developments might be, let alone whether these DSMPs will be adequate to handle the anticipated impacts.

For the above reasons, I am strongly OPPOSED to these DSMPs being implemented in their present form. I ask that UPPCO update and revise these DSMPs after completing new Environmental Impact Statements for these flowages, so that the resulting SMPs are based on complete, accurate, and up-to-date information, and adequately address the concerns discussed above.

Thank you for this opportunity to comment.

Steve Garske  
PO Box 4  
Marenisco, MI  
49947-0004

**Response:** *Opinions noted.*

**Att. 83: June Schmaal**

Janet Wolfe, Communications Manager  
UPPCO  
P.O. Box 130  
Houghton, MI 49931-0130  
May 23, 2007

Dear Ms. Wolfe,

As a long-time resident of the lake district of northern Wisconsin, I speak from experience regarding the effects of pristine shorelines of over-development by greedy or ignorant humans.

The proposed management plans for Project Lands surrounding reservoirs in the Upper Peninsula of Michigan inevitably will result in detrimental impacts on this splendid area. Surely, in 2007, there must be some environmental awareness of the inevitable damage that will occur with the introduction of docks, lights, paths, and viewing corridors and unenlightened property owners.

I urge that WPS-UPPCO honor its FERC license and protect the shoreline habitat from human intervention and all of the environmental destruction that will surely follow.

Sincerely,

June Schmaal  
1163 Hwy 47 West  
Arbor Vitae, WI 54568

**Response:** *Opinions noted. UPPCO has revised the SMPs to, among other items, eliminate the installation of underground electric wiring, the installation of permanent dock lighting, and the installation of boat lifts. Additionally, the final SMPs have been revised to reflect a reduction in the total number of proposed boat slips.*

**Att. 84: Henry W. Peters**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission (FERC)  
888 First St. N.E.  
Washington D.C. 20426

Re: Shoreline Management Plans and Development Projects (SMPs), FERC Reservoir  
Project Numbers:  
Project No.1864 (Bond and Victoria)  
Project No. 2402 (Prickett)  
Project No.10856 (Au Train)  
Project No. 10854 (Cataract)  
Project No. 2506 (Boney Falls)

Dear Secretary Bose (and Commission),

Enclosed below are my comments on the SMP regarding the land sale and projected planned development anticipated to follow in the above referenced hydropower domains. I sent these comments, in timely fashion to UPPCO (i.e., May 21, 2007, the official deadline for public comment) by email, so the form differs slightly, printed. I also corrected, for clarity of understanding, several misspellings and typos (and will therefore, resend remarks to UPPCO, noting slight changes).

The short of it is: I find extremely disconcerting the fact that (as far as I know) UPPCO-WPS/Natera, Inc., has largely attempted to bypass public awareness regarding their intentions and perhaps even worse, the legally mandated regulatory authority of FERC, especially regarding the Project lands.

Please give this appropriate attention... Generally speaking, this may not be the richest area (economically) in the nation, it has, however, been endowed with a certain measure of abundance (diversity in nature, and profound beauty!), as well as the opportunity to recover some measure of wealth, lost from previous generations of human induced error (i.e., careless mining practice, over logging..., some of which involved (clear) cutting up to the edge of waterways, allowing for erosion, changes in turbidity, and temperature, for some example, the Grayling' was lost this way, as they were dependant upon the cooler water temperatures for breeding, and the removal of forest cover (shade) caused over-all water temperatures to rise, etc. (see footnote below on page two).

These "resources" above mentioned (and many not) address also, a future, POTENTIAL, state of the world. The wheel is still in spin... It may be that citizens currently residing in these areas, will, or will not respond appropriately to the call for responsible actions to protect the above, but the opportunity for doing so would have no moral-ethical basis, if this same opportunity were removed from the realm of the possible by means of their own governmental indifference. This is your charge. I prey you act with appropriate consideration for ALL of the inhabitants of these areas.

Thank you for your consideration to this matter.

Sincerely,

Henry W. Peters

**Response:** *Opinions noted.*

The grayling (*Thymallus thymallus*) is a species of freshwater fish in the salmon family (family Salmonidae) of order Salmoniformes. It is the type species of its genus. Native to the Palearctic ecozone, the grayling is Widespread throughout northern Europe, from the United Kingdom and France to the Ural Mountains in Russia. While it was introduced to Morocco in 1948, it does not appear to have become established there. (sic) The grayling prefers cold, running riverine waters, but also occurs in lakes and, exceptionally, in brackish waters around the Baltic Sea. Omnivorous, the fish feeds on vegetable matter as well as crustaceans, insects and spiders, molluscs, zooplankton, and smaller fishes, including Eurasian minnows and yellow perch. Graylings are also prey for larger fish, including the hucho (*Hucho hucho*). With the Arctic grayling, *T. thymallus* is one of the economically important *Thymallus* species, being raised commercially and fished for sport. The grayling is a protected species listed in appendix III of the Bern Convention.

(emphasis added)

Re: Shoreline Management Plans and Development Projects (SMPs), FERC Reservoir Project Numbers:  
Project No.1864 (Bond and Victoria)  
Project No. 2402 (Prickett)  
Project No.10856 (Au Train)  
Project No. 10854 (Cataract)  
Project No. 2506 (Boney Falls)

Dear Ms. Wolfe, et. al.,

Basically, in regards to the above referenced UPPCO/WPS hydropower area land sale areas to Naterra, I wish to state my firm objection.

Off the top, as a longtime area resident of this area in the upper peninsula of Michigan and now land steward of my family's properties, 160 acres approximately seven miles south of Victoria reservoir (since 1941), from the time of my birth, I have lived off and on, or near my grandparents 1928 homestead, my experience tells me that any where near the placement of the projected watercraft in these commercially designed developments as outlined in the current edition of the "Shoreline Management Plan" (SMP), with accompanying docking facilities, strikes any person who has some reasonable amount of awareness, experience and sensitivity to the magnificent but yet fragile diversity of ecosystems in the considered sale areas (and for the sake of discussion here: especially the project lands), of which some is just now beginning to recover from well over a

centuries' previous mistakes, especially in regarding this abundant diversity as an inexhaustible re- source of forest, mineral/water or atmosphere. Unfortunately some of these areas, in close proximity, continue to take a beating... e.g., road building inappropriate logging, or other manner of oft mindless exploitation, and some areas, it is yet to be demonstrated even their potential for resilience.

If you get nothing more from this letter than this: I say, NO TO DOCKS IN THE SALE AREAS. But there is more, and I would now take this opportunity to expand a bit.

First of all, the license agreement, accomplished in 2003 between the Federal Energy Regulatory Commission (FERC) and UPPCO states (albeit in relation to the Wild and Scenic Rivers Act, which may or may not be at the moment, moot) that:

76. Section 7(a) does not bar the issuance of a license for its continued operation, as long as no new construction is proposed,<sup>54</sup> and UPPCO proposes no new construction in its re license application. (emphasis added)

And further it states:

16 U.S.C. § 808(e). LICENSE TERM 108. Section 15(e) of the FPA 63 provides that any new license issued shall be for a term which the Commission determines to be in the public interest, but the term may not be less than 30 years nor more than 50 years. 109. The Commission's general policy is to establish 30-year terms for projects that propose little or no redevelopment, new construction, new capacity, or environmental mitigative and enhancement measures; 40-year terms for projects that propose moderate redevelopment, new construction, new capacity, or mitigation and enhancement measures; and 50-year terms for projects that propose extensive redevelopment, new construction, new capacity, or enhancement. 110. In Section 2.5 of the Agreement, the signatories agree to a 40-year license term. In 1991, UPPCO completed reconstruction of the Victoria dam and related facilities costing approximately \$14,000,000. UPPCO also completed a \$6,000,000 replacement of the woodstave pipeline with a spiral wound steel pipeline in 2001. In light of these expenditures and the enhancement measures and operational changes proposed pursuant to the Agreement, a term of 40 years is appropriate. Accordingly, the new license for the Bond Falls Project will have a term of 40 years. (emphasis added)

In other words, the way I read this, the current license was granted to all areas under the condition that UPPCO did not project any more possible construction that would go beyond the proposed changes at Victoria dam reconstruction, so therefore, it seemed a 40 year license renewal was justified. This, among other features, is what the agreement was about.

Ok, so there were NON-project lands which are supposedly open for any business that the "owners" may choose... We might debate, in an other, more kind forum, the wisdom

of this "any business" however, I wish to focus on my main concern here, the project lands and the project waterways...

- What FERC approved for the Recreational Plan does not resemble in the least the massive changes now proposed..., involving construction and intrusion of docks, landings, lights, and, of course, water craft with accompanying residences and exponential variances through time.

- UPPCO/WPS commissioned a "drive by" biological survey..., about a several day time line, during only one season of many here which transpire, using, for example, a helicopter to do raptor surveys...(absurd!). The "Michigan Hydro Relicensing Coalition" (MHRC) states in their August 28, 2006 letter to UPPCO that:

"We recommend that UPPCO not identify these studies as 'Environmental Assessments.' Environmental Assessment (EA) has a specific meaning under the National Environmental Policy Act (NEPA). These assessments do not meet the requirements of an EA as defined under NEPA. In general, an EA includes brief discussions of the following: the need for the proposal, an analysis of alternatives, environmental impacts of the alternatives, and a listing of agencies and persons consulted."

- They go on to politely suggest that you call your over view preliminary, biased view assessment (of the publics willingness to digest the superficial!) as an "Environmental Baseline Assessment." I most respectfully cease my agreement with the MHRC at this point, as the study had more of an appearance of making a puppet show of the resource than any serious degree of concern for the possible correspondence to the important natural relations that show them through time and space.

- That said, from even a cursory glance at the comments the various commenting agencies made, both as individual organizations and as a coalition, there seemed more or less unanimous apprehension as to the sufficiency of the "E-Pro, Inc." survey.

- I would further add, besides an EA that, because of the scope and magnitude of these projects, both site specific and inclusive of the total projects areas covered in this proposed landscape modification of which a Federal Agency is the regulatory overseer (FERC), cumulative effects which include, by legal mandate, from the NEPA as sited below, an EA, a Biological Evaluation (BE) and also appropriate Environmental Impact Statements (EIS) need be done to maintain any credible compliance with the letter and spirit of applicable laws.

NEPA  
40 CFR PART 1500  
Sec. 1508.7

Cumulative impact. "Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to



other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

- Nature is, one way or another, in a dynamic condition... Where are the now, relatively every day discussed possibilities of GLOBAL CLIMATE CHANGE considerations in relation to these projects? !
- What happens, for example if, given that there is now generally admitted loss of fossil fuel ("peak oil), and the likely possible effects of this development? • Where is the analysis of the probabilities, given you are inviting multiplying possibilities for who knows who, from who knows where regarding "viral hemorrhagic septicemia virus, VHSV, which causes anemia and hemorrhaging in fish," as cited in below included article, not to mention other invasive species of plant and animals (i.e., zebra muscle, etc.)?
- In this "Shoreline Management Plan" numbers of "proposed recreation enhancements are listed... very impressive... and supposedly members of the public ("local stakeholder") have, for example, asked for "fish cleaning stations." Well, I have been to most every public meeting (other than the so-called "focus groups.") and I have not once heard any one ask for a "fish cleaning station." As a matter of fact, the vast majority of comments I have heard expressed serious and troubled concern over the presentation and direction of this kind of artificial city in the "wilderness." Looks to me, like most folks view this as developing a rich persons playground at the expense of something many, including my self, hold of dear value here" A land and water way where human breath and care may stand some harmonious chance with what the good lord offers ... The chance to give to future generations, some semblance of what potential the world, untrammled by total human misery and degradation!
- And speaking of focus groups, you stated some where in your meanderings regarding the possibilities for likely "riches" in this development that you would consult with "all local stakeholders." (paraphrase) regarding our concerns, and yet, from a discussion I had with some of the people who tried to sincerely participate in the "focus groups," you sponsored, their consensus opinions were evidently given no serious credence (i.e. consensus was only "advisory"). That, given the number of meetings and deals, i.e., watching the Naterra & Co. at all of the public meetings, appearing to be playing footsie and other games with some of the Township and other "officials," was not something I felt in the least positive about.

I could go on... but I believe there is sufficient amount of consideration hereby presented to let you know the degree of "appreciation" I have for your little proposal.

No Docks!

Thank you for your attention.

Sincerely,  
Henry W. Peters

**Response:** *Opinions noted.*

**Att. 85: Barbara Quenzi**

From: pquenzi [pquenzi@hughes.net]  
Sent: Wednesday, May 16, 2007 12:37 PM  
To: jwolfe@uppc.com

Janet Wolfe:

Re: FERC projects 2402 (Prickett); 1884 (Bond Falls); 10858 (Au Train); 10854 (Cataract); 2506 (Boney)

I oppose construction of docks at Prickett, Victoria, Au Train, Cataract, Boney Falls and Bond Falls site, as this will degrade wildlife habitat. I oppose removal of stumps at Prickett Dam, as this will allow the increased traffic of motor boats to go at much higher speeds and generate more noise. I oppose the establishment of "view corridors" as this would further degrade wildlife habitat.

In my opinion, the UPPCO SMP does not protect and enhance wildlife habitat as required by FERC. Given the complexity of this issue and the limited scope of the Shoreline Management Plan, an Environmental Assessment should be required of UPPCO in this matter.

**Response:** *In response to comments from agencies and the public, the final SMPs have been revised to reflect a reduction in the total number of proposed boat slips. Additionally, the number of enhanced view areas has been dramatically reduced and the proposal to remove stumps from the Prickett impoundment has been eliminated.*

The wildness of the Victoria and Prickett dam areas (of which I am most familiar) is what makes them special.

Barb Quenzi  
Ph: 906-482-7476  
Email: pquenzi@hughes.net

**Att. 86: Mike Stockwell**

Dear Sir,

I oppose shoreline construction, boating improvements, and excessive access trails proposed by Upper Peninsula Power Company at Northern Michigan's Prickett, Victoria, Au Train, Cataract, Boney Falls, and Bond Falls sites.

I feel that the impact on the natural environment, and subsequent tourism industry has not been fully considered.

Project No. 1864 (Bond and Victoria)

Project No. 2402 (Prickett)

Project No. 10856 (Au Train)

Project No. 10854 (Cataract)

Project No. 2506 (Boney Falls)

Mike Stockwell  
13498 Hove Road  
Atlantic Mine, MI 49905

**Response:** *Opinions noted*

**Att. 87: Suzanne Van Dam**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E.  
Washington D.C. 20426

May 20, 2007

Dear Kimberly Bose,

This letter addresses the following FERC reservoir project numbers:

- > Project No. 1864 (Bond and Victoria)
- > Project No. 2402 (Prickett)
- > Project No. 10856 (Au Train)
- > Project No. 10854 (Cataract)
- > Project No. 2506 (Boney Falls)

I'm a resident of the Upper Peninsula of Michigan and am greatly concerned by the proposed management plan. I have visited and hiked near most of these special places, and I STRONGLY OPPOSE CONSTRUCTION OF DOCKS as proposed by Upper Peninsula Power Company at Prickett, Victoria, AuTrain, Cataract, Boney Falls, and

Bond Falls sites. Given the complexity of this issue and the limited scope of the Shoreline Management Plan an Environmental Assessment should be required of UPPCO in this matter.

Sincerely,  
Suzanne Van Dam  
702W. Edwards  
Houghton, MI 49931  
(906) 483-4729  
[Suzanne.vandam@flnlandia.edu](mailto:Suzanne.vandam@flnlandia.edu)

**Response:** *Opinions noted.*

**APPENDIX B: RECORD OF SECTION 7 OF THE ENDANGERED  
SPECIES ACT CONSULTATION**



Upper Peninsula Power Company  
(a subsidiary of WPS Resources Corporation)  
700 North Adams Street  
P.O. Box 19001  
Green Bay, WI 54307-9001

April 12, 2007

Mr. Craig Czarniecki, Field Supervisor  
U.S. Fish and Wildlife Service  
East Lansing Michigan Field Office  
2651 Coolidge Road, Suite 101  
East Lansing, Michigan 48823

Dear Mr. Czarniecki:

Section 7 Endangered Species Act Consultation - Upper Peninsula Power Company  
Shoreline Management Plans for FERC Project Nos. 1864 (Bond Falls), 2402 (Prickett),  
10854 (Cataract), 10856 (Au Train), and 2506 (Boney Falls)

The Upper Peninsula Power Company (UPPCO) has prepared draft Shoreline Management Plans (SMP) for each of the above-referenced hydropower facilities licensed by the Federal Energy Regulatory Commission (FERC). The SMPs have been developed in an effort to achieve an appropriate balance between the anticipated development of non-project lands near each project; public and private recreation and the preservation of important natural, environmental, or cultural features of the project's lands and waters, while maintaining the primary project function, the production of electricity. UPPCO plans to grant limited permission for pathways and docks on project lands and waters to property owners near the project lands. Through the permits, UPPCO will have an enforcement capability and can manage and limit impacts to project shorelines in an effort to reduce impacts of recreational use to important natural, environmental, cultural, and aesthetic project values within the project boundary.

The draft SMPs have been circulated for public review and comment; they were developed in consultation with resource agencies including the U.S. Fish and Wildlife Service (Service), local governments, non-governmental organizations, and the local public. Copies of the draft SMPs have been provided to Ms. Christie Deloria-Sheffield at your Upper Peninsula Sub-Office.

UPPCO is seeking approval from the FERC to implement the permitting process for pathways and docks consistent with the project SMPs. Accordingly, the FERC will be contacting the Service regarding consultation under section 7 of the Endangered Species Act. UPPCO briefly addressed federally-listed threatened or endangered species in the draft SMPs. This letter provides additional text regarding federally-listed threatened or endangered species pertaining to each SMP. UPPCO reviewed the Service's technical assistance website for federally-listed threatened and endangered species and contacted the Michigan Department of Natural Resources Endangered Species Specialist for species occurrence information pertaining to each project. Bald

Mr. Craig Czarnecki  
April 12, 2007  
Page 2 of 2

eagle survey information for 2006 was received from your office as well. In addition, field investigations of the project area conducted in 2006 through E-PRO Engineering & Environmental Consulting, LLC provided some additional species occurrence information.

UPPCO requests that the Service review the enclosed species information and assessments for each SMP and advise us of any omissions or updated species occurrence information. We would appreciate your comments if you have concerns regarding implementation of the SMPs or any recommendations of further measures UPPCO should institute that would help to avoid or minimize adverse effects to threatened or endangered species in implementing the SMPs.

We would appreciate a response to this request within 30 days of the date of this letter. If appropriate, we would be willing to meet with you or your staff to discuss any concerns regarding potential adverse effects to threatened or endangered species that might result from SMP implementation.

If you have any questions, you may contact me at (920) 433-1094.

Sincerely,



Shawn C. Puzen  
Environmental Consultant  
Integrus Business Support, LLC

syx

Enc.

cc: Ms. Christie Deloria-Shoffield, FWS - Marquette, MI  
Mr. Robert Fletcher, FERC - Washington, D.C.  
Mr. William Campbell, TRC  
Mr. Brent McCarthy, TRC

## AU TRAIN SMP

### 9.5 THREATENED AND/OR ENDANGERED SPECIES

The FWS technical assistance website for federally-listed threatened and endangered species includes the bald eagle (*Haliaeetus leucocephalus*), gray wolf (*Canis lupus*), Canada lynx (*Lynx canadensis*), piping plover (*Charadrius melodus*), piping plover designated critical habitat, and Pitcher's thistle (*Cirsium pitcheri*) on its list of species occurring or potentially occurring in Alger County.

Recent review of available species occurrence information, habitat requirements, and results of 2006 field investigations of the project area conducted through E-PRO Engineering & Environmental Consulting, LLC concluded that the piping plover, piping plover designated critical habitat and the Pitcher's thistle do not occur within the Au Train Project boundary or on adjacent lands.

#### Bald Eagle

The bald eagle is federally-listed as threatened and listed by the State of Michigan as threatened. Adult and immature bald eagles have been observed in flight and perching in trees along the shoreline of the Au Train impoundment and likely catch fish from the impoundment. Eagles have nested at several sites near the impoundment or on islands within the impoundment over many years. An active bald eagle nest was documented at the Au Train impoundment in 2006.

The area within a 660-foot radius of the nest site has been designated in the SMP as Conservation Area where no development is allowed. Further, SMP management activities will be carried out consistent with provisions of the Bald Eagle Management Plan issued under Article 405 of the Au Train Project License. As such, primary nesting areas located immediately around nesting sites and secondary nesting areas extending a minimum radius of 660 feet from the nest will be managed to avoid or minimize disturbance in the vicinity of known bald eagle nests. Certain activities will be restricted during the critical nesting period through the fledging of any young, from February 1 through July 31 of any given year. Restricted activities would include human entry into the primary nesting area, motorized access, development of recreation facilities, and major project facility-related construction activities not associated with dam safety. Human disturbance within the primary zone, except for that which is required for bald eagle research and management by qualified individuals will be prohibited during the moderately critical period from January 1 through August 31 of each year. Land use activities that result in significant changes in the landscape such as clear cutting, land clearing, or major construction, and other less significant direct changes such as use of chemicals toxic to bald eagles, are prohibited at all times in the secondary nesting areas. Through implementation of the SMP, UPPCO proposes to prohibit commercial timber harvesting within 200 feet of the project impoundment. Accordingly, previously-used, standing nest trees will not be removed from project lands since they may be reoccupied in the future; supercanopy trees will be maintained within the project area as additional



potential nesting habitat. If a pair of eagles chooses to establish a new nest in an area already receiving human use resulting from project operation or recreation facilities, the human activities will continue to occur, but will not be expanded. In those instances, as agreed to in developing the Article 405 Plan, the ongoing human activities will not be restricted during the critical period.

With the addition of the individual and cluster docks at the Au Train impoundment and the recreation enhancements for general public recreation use, increased boating and other recreational activity on the impoundment can be expected. Increased frequency of human activity within the project boundaries resulting from anticipated nearby residential development also can be expected. Approximately 62 % of the lands within the project boundaries are designated for such uses. Even with the establishment of nest protection areas, it is possible that some individuals, knowingly or inadvertently, still may engage in potentially disturbing activities within the nesting zones or in areas where eagles are perching or fishing. Under these circumstances, adult or immature bald eagles could be exposed to recreational activities that may result in nest abandonment or disruption of feeding activity.

Implementation of the SMP together with the Article 405 Bald Eagle Management Plan should minimize the likelihood of disturbance to nesting, perching or feeding activities. The measures included in the Article 405 Plan pertaining to the bald eagle are generally consistent with the U.S. Fish and Wildlife Service's 2006 Draft National Bald Eagle Management Guidelines which provide recommendations for land management practices that will benefit bald eagles and how to avoid disturbing them. As additional measures to avoid potential disturbance to bald eagles nesting, perching and/or feeding within project boundaries, UPSCO will make educational materials available to the public that will emphasize the importance and sensitivity of nesting and feeding areas and encourage cooperation in avoiding disturbance to the eagles. Any further use of existing, undeveloped, informal campsites near the current nest site or future nest trees will be prohibited. In addition, informational buoys will be placed at the outer edges of primary nesting areas that extend into the impoundments to discourage boaters from approaching active nests. Under most circumstances, implementation of these management provisions should reduce potential impacts to nesting to a point where they will be undetectable. Outside of nesting territories, perching and feeding eagles should be able to avoid disturbance from recreational activities without any measurable effects.

### Gray Wolf

The gray wolf is federally listed as threatened; however, the U.S. Fish and Wildlife Service (FWS) has published a final rule in the *Federal Register* (Volume 72, Number 26, February 8, 2007) that would remove the western Great Lakes Distinct Population Segment (DPS) of the gray wolf from the list of endangered and threatened wildlife. The geographic extent of the DPS includes the Upper Peninsula of Michigan. The final rule could be in effect as early as March 12, 2007. The gray wolf is listed as threatened by the State of Michigan as well.

As indicated in the recent *Federal Register* notice by the FWS, the gray wolf is found in every county of the Upper Peninsula. In correspondence regarding the UPPCO projects, the Michigan Department of Natural Resources (DNR) commented that gray wolves are habitat generalists and are distributed widely in the Upper Peninsula.

The Michigan DNR was contacted to determine if there were any recorded wolf occurrences near or within the project boundary. The DNR response gave no indication of any nearby active territories, nor have any den or rendezvous sites been identified on project lands. Considering its wide-ranging nature, it is possible that the gray wolf travels through the project area.

Increased public recreation use can be expected to occur with implementation of the SMP as well as increased frequency of human activity within the project boundaries as a result of anticipated nearby residential development. The increased human activity may alter the pattern or areas of transient activity by wolves within the project area; however, any effects are not likely to be measurable.

### Canada Lynx

The Canada lynx is federally-listed as threatened and listed by the State of Michigan as endangered. State and Federal natural resource agencies have documented tracks and/or sightings of lynx in recent years in nearby counties of the Upper Peninsula or Wisconsin counties bordering the Upper Peninsula. Review of lynx records and observations by agency staff and researchers indicate that historic and recent lynx occurrences in Michigan have been a result of immigration from lynx populations in Canada and are correlated with population cycles of lynx in Canada.

To sustain a population, the Canada lynx requires very large areas containing boreal forest habitat and is a specialized predator of the snowshoe hare. The FWS concluded in its Final Rule Notice of Remanded Determination of Status for the Contiguous United States Distinct Population Segment of the Canada Lynx; Clarification of Findings published in the July 3, 2003 *Federal Register* (Volume 68), that the limited number of lynx occurrences in Michigan did not constitute a resident population, but were dispersing animals. Michigan's Upper Peninsula supports boreal forest; however, the extent of habitat is limited and there is limited connectivity with suitable habitat in Canada. In addition, review of lynx occurrence records had provided no verifiable evidence of successful reproduction.

Because dispersing Canada lynx will travel long distances seeking suitable habitat and the lynx has a very large home range of many square miles within suitable habitat, it is possible that lynx could pass through the project area of the Au Train impoundment at some time. There is no available information, however, to indicate that lynx are currently present or use the project area.

## BOND FALLS SMP

### 9.5 THREATENED AND/OR ENDANGERED SPECIES

#### Bald Eagle

The bald eagle (*Haliaeetus leucocephalus*) is federally-listed as threatened and listed by the State of Michigan as threatened. Bald eagles have been observed in the area of the Bond Falls impoundment where adult and immature eagles use perch trees within the project boundary and likely catch fish from the impoundment. No recent nesting has been documented; however, a number of suitable nest trees are available. An active bald eagle nest has been documented downstream of the Victoria impoundment within the project boundary (E/PRO 2006). The area within a 660-foot radius of the nest site has been designated Conservation Area where no development or timber harvesting is permitted.

SMP management activities will be carried out consistent with provisions of the Threatened and Endangered Species Protection and Enhancement Plan issued under Article 415 of the Bond Falls Project License. As such, primary nesting areas located immediately around nesting sites and secondary nesting areas extending a minimum radius of 660-feet from the nest will be managed to avoid or minimize disturbance in the vicinity of known bald eagle nests. Certain activities will be restricted during the critical nesting period through the fledging of any young, from February 1 through July 31 of any given year. Restricted activities would include human entry into the primary nesting area, major project facility-related construction activities not associated with dam safety, and development of recreation facilities. Human activities that will not be permitted within the surrounding secondary nesting areas include new development, the building of roads and trails facilitating access to the nest, and the use of chemicals toxic to bald eagles. Where no nests currently exist, supercanopy trees with a high potential for nesting habitat will be maintained within the project area. Management for old growth forest characteristics around project reservoirs will be conducted through activities outlined in the Buffer Zone Plan. Previously-used, standing nest trees will not be removed from project lands since they may be reoccupied in the future. If a pair of eagles chooses to establish a new nest in an area already receiving human use resulting from project operation or recreation facilities, the human activities will continue to occur, but will not be expanded. In those instances, as agreed to in developing the Article 415 Plan, the ongoing human activities will not be restricted during the critical period.

With the addition of the individual and cluster docks at the Bond Falls and Victoria impoundments and the recreation enhancements for general public recreation use, increased boating and other recreational activity on the impoundments can be expected. Increased frequency of human activity within the project boundaries resulting from anticipated nearby residential development also can be expected. Even with the establishment of nest protection areas, it is possible that some individuals, knowingly or inadvertently, still may engage in potentially disturbing activities within the nesting zones or in areas where eagles are perching or fishing. Under these circumstances, adult or

immature bald eagles could be exposed to recreational activities that may result in nest abandonment or disruption of feeding activity.

The SMP includes 68.5% of project lands at the Bond Falls impoundment and 66.5% of project lands at the Victoria impoundment designated as Conservation Area which offers substantial suitable habitat for bald eagle perching and feeding as well as potential for nesting. Implementation of the SMP together with the Article 415 Threatened and Endangered Species Protection and Enhancement Plan should minimize the likelihood of disturbance to nesting, perching or feeding activities. The measures included in the Article 415 Plan pertaining to the bald eagle are generally consistent with the U.S. Fish and Wildlife Service's 2006 Draft National Bald Eagle Management Guidelines which provide recommendations for land management practices that will benefit bald eagles and how to avoid disturbing them. As additional measures to avoid potential disturbance to bald eagles nesting, perching and/or feeding within project boundaries, UPPCO will make educational materials available to the public that will emphasize the importance and sensitivity of nesting and feeding areas and encourage cooperation in avoiding disturbance to the eagles. In addition, informational buoys will be placed at the outer edges of primary nesting areas that extend into the impoundments, to discourage boaters from approaching active nests. Under most circumstances, implementation of these management provisions should reduce potential impacts to nesting to a point where they will be undetectable. Outside of nesting territories, perching and feeding eagles should be able to avoid disturbance from recreational activities without any measurable effects.

### Gray Wolf

The gray wolf (*Canis lupus*) is federally-listed as threatened; however, the U.S. Fish and Wildlife Service (FWS) has published a final rule in the *Federal Register* (Volume 72, Number 26, February 8, 2007) that would remove the western Great Lakes Distinct Population Segment (DPS) of the gray wolf from the list of endangered and threatened wildlife. The geographic extent of the DPS includes the Upper Peninsula of Michigan. The final rule could be in effect as early as March 12, 2007. The gray wolf is listed as threatened by the State of Michigan as well.

As indicated in the recent *Federal Register* notice by the FWS, the gray wolf is found in every county of the Upper Peninsula. In addition, the Upper Peninsula wolf population, by itself, has surpassed the recovery criterion for a second non-isolated population in the eastern United States for a minimum of 5 years as well as the Federal criterion for an isolated wolf population.

UPPCO was requested by the agencies to investigate possible impacts to gray wolf habitat and/or populations with regard to increases in recreational development and uses at the hydroelectric projects. The MDNR commented that while gray wolves are habitat generalists and distributed widely in the Upper Peninsula, surveys have shown gray wolves using territory within a mile of the shoreline of the Bond and Victoria impoundments. Considering the wide-ranging nature of the wolf, it is likely that the gray wolf travels through the project area of the impoundments and may occasionally hunt for

prey within the project boundaries. No den or rendezvous sites have been identified on project lands at either impoundment.

As indicated previously, SMP management activities will be carried out consistent with provisions of the Threatened and Endangered Species Protection and Enhancement Plan issued under Article 415 of the Bond Falls Project License. UPPCO will manage lands within the project boundary, consistent with MDNR wolf management guidelines and the Ottawa National Forest Threatened and Endangered Species guidelines for the protection of gray wolf den sites.

Although availability of prey can be a primary limiting factor in maintaining wolf populations, both the MDNR and the U.S. Forest Service indicated in comments provided regarding the Article 415 Plan, that it is not necessary to manage UPPCO lands around the margin of Bond Falls Reservoir for prey habitat for wolves. Ample prey habitat is available on Forest Service lands bordering on UPPCO lands in the project area. The agencies indicated that the most important contribution the UPPCO lands around Bond Falls could make for wolves would be to manage road densities so that vehicular access is minimized, and to protect any wolf den or rendezvous sites that are encountered.

The Article 415 Plan provides that UPPCO will close temporary roads created for timber harvest activities to vehicle use upon completion of those activities, whenever possible. Previously constructed roads that have become unnecessary also will be blocked to vehicle access, where possible. Vehicle access already exists to areas designated in the SMP for recreational enhancements; however, improvements will be made to those trails to accommodate general vehicle use; only one new road will cross a small segment of project lands from adjacent land. Overall road densities within the project boundary will not exceed the generally recommended density at or below one lineal mile of road per square mile.

Increased public recreation use can be expected to occur with implementation of the SMP as well as increased frequency of human activity within the project boundaries as a result of anticipated nearby residential development. The increased human activity may alter the pattern or areas of transient activity by wolves within the project area; however, any effects are not likely to be measurable with the implementation of provisions of the Article 415 Threatened and Endangered Species Protection and Enhancement Plan and the ongoing, successful conservation measures for the wolf occurring through management of the nearby Ottawa National Forest.

### Canada Lynx

The FWS technical assistance website for federally-listed threatened and endangered species includes the Canada lynx (*Lynx canadensis*) on its list of species occurring or potentially occurring in Ontonagon County. The State of Michigan has listed the lynx as endangered. State and Federal natural resource agencies have documented tracks and/or sightings of lynx in recent years in nearby counties of the Upper Peninsula or Wisconsin counties bordering the Upper Peninsula. Review of lynx records and observations by

agency staff and researchers indicate that historic and recent lynx occurrences in Michigan have been a result of immigration from lynx populations in Canada and are correlated with population cycles of lynx in Canada.

To sustain a population, the Canada lynx requires very large areas containing boreal forest habitat and is a specialized predator of the snowshoe hare. The FWS concluded in its Final Rule Notice of Remanded Determination of Status for the Contiguous United States Distinct Population Segment of the Canada Lynx; Clarification of Findings published in the July 3, 2003 *Federal Register* (Volume 68), that the limited number of lynx occurrences in Michigan did not constitute a resident population, but were dispersing animals. Michigan's Upper Peninsula supports boreal forest; however, the extent of habitat is limited and there is limited connectivity with suitable habitat in Canada. In addition, review of lynx occurrence records had provided no verifiable evidence of successful reproduction.

Because dispersing Canada lynx will travel long distances seeking suitable habitat and the lynx has a very large home range of many square miles within suitable habitat, it is possible that lynx could pass through the project area of the Bond Falls and/or Victoria impoundments at some time. There is no available information, however, to indicate that lynx are currently present in the project area. With implementation of provisions of the Article 415 Threatened and Endangered Species Protection and Enhancement Plan, it is unlikely that an occasional dispersing lynx would be affected by SMP implementation.

## BONEY FALLS SMP

### 9.5 THREATENED AND/OR ENDANGERED SPECIES

The FWS technical assistance website for federally-listed threatened and endangered species includes the following on its list of species occurring or potentially occurring in Marquette and Delta counties:

Marquette County - bald eagle (*Haliaeetus leucocephalus*), threatened; gray wolf (*Canis lupus*), threatened; Canada lynx (*Lynx canadensis*), threatened; and Kirtland's warbler (*Dendroica kirtlandii*), endangered

Delta County - bald eagle (*Haliaeetus leucocephalus*), threatened; gray wolf (*Canis lupus*), threatened; Canada lynx (*Lynx canadensis*), threatened; Kirtland's warbler (*Dendroica kirtlandii*), endangered; piping plover (*Charadrius melodus*), endangered; Pitcher's thistle (*Cirsium pitcheri*), threatened; dwarf lake iris (*Iris lacustris*), threatened

Recent review of available species occurrence information, habitat requirements, and results of 2006 field investigations of the project area conducted through E-PRO Engineering & Environmental Consulting, LLC concluded that the Pitcher's thistle, dwarf lake iris and Kirtland's warbler do not occur within the Boney Falls Project boundary or on adjacent lands.

#### Bald Eagle

The bald eagle is federally-listed as threatened and listed by the State of Michigan as threatened. The Boney Falls impoundment is commonly used by adult and immature bald eagles as a fishing area; in addition, the tailwater area below the dam is a frequently-used fishing area for wintering eagles. Numerous trees within the project boundary are used as perch sites by eagles. No active bald eagle nests were recorded within the project boundary in 2006; however, an active nest was located approximately 1 mile upstream. Several nest sites have been used in the area of that active nest over time and have resulted in successful reproduction. Although the primary importance of the project area and impoundment to bald eagles appears to be for fishing and perching, it is possible that if the bald eagle population in the Upper Peninsula continues to expand and additional new nesting territories become occupied, eagles could eventually establish a nest site at the Boney Falls Project.

The Boney Falls Project License includes an Endangered and Threatened Species Plan that was issued under Article 410 of the license. SMP management activities will be carried out consistent with provisions of that plan. As such, if bald eagles nest on lands within the project boundary, a nest protection zone will be established extending to a radius of 1,320 feet from the nest site. No activities would be conducted within the nest protection zone between March 1 and July 1 to avoid disturbance during the eagle nesting period. These measures would apply to nest sites established by bald eagles in areas without existing human development or activity, such as the designated Conservation

Areas. Consistent with approved bald eagle management plans at UPPCO's other licensed hydropower facilities in the Upper Peninsula, if a pair of eagles chooses to establish a new nest in an area already receiving human use resulting from project operation or recreation facilities, the human activities will continue to occur, but will not be expanded. UPPCO will initiate consultation with the FWS and MDNR if a pair of eagles nests in an area already under human influence to implement pair-specific management guidelines. Areas used by bald eagles for foraging during the nesting period as well as during winter months would be delineated and UPPCO would minimize ingress and egress within the delineated winter foraging areas in the buffer zone to minimize disturbance to foraging eagles. Per the Article 410 Plan, UPPCO will inform the public of the importance of the forests along the margins of the impoundment and river for protection of the bald eagle. Further, UPPCO will consult with the FWS and MDNR prior to implementing activities or policies that may disturb bald eagle use of the project area. Through implementation of the SMP, UPPCO proposes to prohibit commercial timber harvesting on all project lands of the Boney Falls impoundment. Accordingly, perch trees and potential nesting habitat, including any supercanopy trees, will be maintained within the project area; if nesting occurs over time, any previously-used, standing nest trees will not be removed from project lands since they may be reoccupied in the future. Further, lands within the project boundary along the entire east side of the Boney Falls impoundment will be designated as Conservation Area or Project Operations Area which will provide a continuous stretch of available habitat for perching and potential nesting (Please note: The draft SMP document will need to be modified to reflect this change).

With the addition of the individual and cluster docks at the Boney Falls impoundment and the recreation enhancements for general public recreation use, increased boating and other recreational activity on the impoundment can be expected. Increased frequency of human activity within the project boundaries resulting from anticipated nearby residential development also can be expected. Even with the establishment of nest protection areas, if nesting occurs, it is possible that some individuals, knowingly or inadvertently, still may engage in potentially disturbing activities within the nesting zones or in areas where eagles are perching or fishing. Under these circumstances, adult or immature bald eagles could be exposed to recreational activities that may result in nest abandonment or disruption of feeding activity.

Implementation of the SMP together with the Article 410 Endangered and Threatened Species Management Plan should minimize the likelihood of disturbance to nesting, perching or feeding activities. Conservation Areas represent approximately 30% of project lands at the Boney Falls impoundment within which suitable habitat is available for bald eagle perching, feeding and potentially nesting. The measures included in the Article 410 Plan pertaining to the bald eagle are generally consistent with the U.S. Fish and Wildlife Service's 2006 Draft National Bald Eagle Management Guidelines which provide recommendations for land management practices that will benefit bald eagles and how to avoid disturbing them. As an additional measure to avoid potential disturbance if bald eagles nest within the project boundary, informational buoys will be placed along a 330-foot radius within the nest protection zone if it extends into the impoundment to



discourage boaters from approaching active nests. Under most circumstances, implementation of these management provisions should reduce potential impacts to nesting to a point where they will be undetectable. Outside of nesting territories, perching and feeding eagles should be able to avoid disturbance from recreational activities without any measurable effects.

### Gray Wolf

The gray wolf is federally-listed as threatened; however, the U.S. Fish and Wildlife Service (FWS) has published a final rule in the *Federal Register* (Volume 72, Number 26, February 8, 2007) that would remove the western Great Lakes Distinct Population Segment (DPS) of the gray wolf from the list of endangered and threatened wildlife. The geographic extent of the DPS includes the Upper Peninsula of Michigan. The final rule could be in effect as early as March 12, 2007. The gray wolf is listed as threatened by the State of Michigan as well.

As indicated in the recent *Federal Register* notice by the FWS, the gray wolf is found in every county of the Upper Peninsula. In correspondence regarding the UPPCO projects, the MDNR commented that gray wolves are habitat generalists and are distributed widely in the Upper Peninsula.

The MDNR was contacted to determine if there were any recorded wolf occurrences near or within the project boundary. The MDNR response gave no indication of any nearby active territories, nor have any den or rendezvous sites been identified on project lands. Considering its wide-ranging nature, it is possible that the gray wolf travels through the project area.

Increased public recreation use can be expected to occur with implementation of the SMP as well as increased frequency of human activity within the project boundaries as a result of anticipated nearby residential development. The increased human activity may alter the pattern or areas of transient activity by wolves within the project area; however, any effects are not likely to be measurable.

### Canada Lynx

The Canada lynx is federally-listed as threatened and listed by the State of Michigan as endangered. State and Federal natural resource agencies have documented tracks and/or sightings of lynx in recent years in nearby counties of the Upper Peninsula or Wisconsin counties bordering the Upper Peninsula. Review of lynx records and observations by agency staff and researchers indicate that historic and recent lynx occurrences in Michigan have been a result of immigration from lynx populations in Canada and are correlated with population cycles of lynx in Canada.

To sustain a population, the Canada lynx requires very large areas containing boreal forest habitat and is a specialized predator of the snowshoe hare. The FWS concluded in its Final Rule Notice of Remanded Determination of Status for the Contiguous United

States Distinct Population Segment of the Canada Lynx; Clarification of Findings published in the July 3, 2003 *Federal Register* (Volume 68), that the limited number of lynx occurrences in Michigan did not constitute a resident population, but were dispersing animals. Michigan's Upper Peninsula supports boreal forest; however, the extent of habitat is limited and there is limited connectivity with suitable habitat in Canada. In addition, review of lynx occurrence records had provided no verifiable evidence of successful reproduction.

Because dispersing Canada lynx will travel long distances seeking suitable habitat and the lynx has a very large home range of many square miles within suitable habitat, it is possible that lynx could pass through the project area of the Boney Falls impoundment at some time. There is no available information, however, to indicate that lynx are currently present or use the project area.

## CATARACT SMP

### 9.5 THREATENED AND/OR ENDANGERED SPECIES

The FWS technical assistance website for federally-listed threatened and endangered species includes the bald eagle (*Haliaeetus leucocephalus*), gray wolf (*Canis lupus*), Canada lynx (*Lynx canadensis*) and Kirtland's warbler on its list of species occurring or potentially occurring in Marquette County.

Recent review of available species occurrence information, habitat requirements, and results of 2006 field investigations of the project area conducted through E-PRO Engineering & Environmental Consulting, LLC concluded that the Kirtland's warbler does not occur within the Cataract Project boundary or on adjacent lands.

#### Bald Eagle

The bald eagle is federally-listed as threatened and listed by the State of Michigan as threatened. Adult and immature bald eagles were frequently observed in flight over the Cataract impoundment in 2006 and it is possible the eagles used the area for perching and feeding. There are no records of eagles having nested within the Cataract Project boundary. Some suitable nesting habitat is available as well as trees and snags for perching. It is possible that if the bald eagle population in the Upper Peninsula continues to expand and additional new nesting territories become occupied, eagles may eventually establish a nest site at the Cataract Project.

The Cataract Project License includes a Bald Eagle Management Plan in Appendix B of the Wildlife Management Plan that was issued under Article 410 of the license. SMP management activities will be carried out consistent with provisions of those plans. As such, if bald eagles nest on lands within the project boundary, primary nesting areas located immediately around nesting sites and secondary nesting areas extending a minimum radius of 660 feet from the nest will be managed to avoid or minimize disturbance in the vicinity of known bald eagle nests. Major land uses such as logging, development of recreation facilities, building of roads, other non-project facility-related construction and mining as well as use of chemicals toxic to eagles will be prohibited within the primary nesting area at any time. Certain activities will be restricted during the critical nesting period through the fledging of any young, from February 1 through July 31 of any given year. Restricted activities would include human entry into the primary nesting area, company low-level aircraft operations and major project facility-related construction activities. In the secondary nesting areas, new development, building of new roads and trails facilitating access to the nest, and the use of chemicals toxic to bald eagles are prohibited at all times. Through implementation of the SMP, UPPCO proposes to prohibit commercial timber harvesting within 200 feet of the Cataract impoundment. Accordingly, supercanopy trees will be maintained within the project area as potential nesting habitat; if nesting occurs over time, any previously-used, standing nest trees will not be removed from project lands since they may be reoccupied in the future. If a pair of eagles chooses to establish a new nest in an area already receiving

human use resulting from project operation or recreation facilities, the human activities will continue to occur, but will not be expanded. UPPCO will initiate consultation with the FWS and MDNR if a pair of eagles nests in an area already under human influence to implement pair-specific management guidelines.

With the addition of the individual and cluster docks at the Cataract impoundment and the recreation enhancements for general public recreation use, increased boating and other recreational activity on the impoundment can be expected. Increased frequency of human activity within the project boundaries resulting from anticipated nearby residential development also can be expected. Even with the establishment of nest protection areas, it is possible that some individuals, knowingly or inadvertently, still may engage in potentially disturbing activities within the nesting zones or in areas where eagles are perching or fishing. Under these circumstances, adult or immature bald eagles could be exposed to recreational activities that may result in nest abandonment or disruption of feeding activity.

Implementation of the SMP together with the Article 410 Bald Eagle Management Plan and Wildlife Management Plan should minimize the likelihood of disturbance to nesting, perching or feeding activities. Conservation Areas represent 83.3% of project lands at the Cataract impoundment within which suitable habitat is available for bald eagle perching and feeding as well as potential for nesting. The measures included in the Article 410 Plan pertaining to the bald eagle are generally consistent with the U.S. Fish and Wildlife Service's 2006 Draft National Bald Eagle Management Guidelines which provide recommendations for land management practices that will benefit bald eagles and how to avoid disturbing them. As additional measures to avoid potential disturbance to bald eagles nesting, perching and/or feeding within project boundaries, UPPCO will make educational materials available to the public that will emphasize the importance and sensitivity of nesting and feeding areas and encourage cooperation in avoiding disturbance to the eagles. In addition, informational buoys will be placed at the outer edges of primary nesting areas that extend into the impoundments to discourage boaters from approaching active nests. Under most circumstances, implementation of these management provisions should reduce potential impacts to nesting to a point where they will be undetectable. Outside of nesting territories, perching and feeding eagles should be able to avoid disturbance from recreational activities without any measurable effects.

### Gray Wolf

The gray wolf is federally-listed as threatened; however, the U.S. Fish and Wildlife Service (FWS) has published a final rule in the *Federal Register* (Volume 72, Number 26, February 8, 2007) that would remove the western Great Lakes Distinct Population Segment (DPS) of the gray wolf from the list of endangered and threatened wildlife. The geographic extent of the DPS includes the Upper Peninsula of Michigan. The final rule could be in effect as early as March 12, 2007. The gray wolf is listed as threatened by the State of Michigan as well.

As indicated in the recent *Federal Register* notice by the FWS, the gray wolf is found in every county of the Upper Peninsula. In correspondence regarding the UPPCO projects, the MDNR commented that gray wolves are habitat generalists and are distributed widely in the Upper Peninsula.

The MDNR was contacted to determine if there were any recorded wolf occurrences near or within the project boundary. The MDNR response gave no indication of any nearby active territories, nor have any den or rendezvous sites been identified on project lands. Considering its wide-ranging nature, it is possible that the gray wolf travels through the project area.

The Wildlife Management Plan issued under Article 410 of the Cataract Project License includes a provision that UPPCO will consult with the MDNR and FWS to implement the Michigan Gray Wolf Recovery and Management Plan if a gray wolf den or pup rendezvous site is discovered on UPPCO lands within the project boundary. The SMP will be implemented in accordance with the approved Wildlife Management Plan.

Increased public recreation use can be expected to occur with implementation of the SMP as well as increased frequency of human activity within the project boundaries as a result of anticipated nearby residential development. The increased human activity may alter the pattern or areas of transient activity by wolves within the project area; however, any effects are not likely to be measurable.

### Canada Lynx

The Canada lynx is federally-listed as threatened and listed by the State of Michigan as endangered. State and Federal natural resource agencies have documented tracks and/or sightings of lynx in recent years in nearby counties of the Upper Peninsula or Wisconsin counties bordering the Upper Peninsula. Review of lynx records and observations by agency staff and researchers indicate that historic and recent lynx occurrences in Michigan have been a result of immigration from lynx populations in Canada and are correlated with population cycles of lynx in Canada.

To sustain a population, the Canada lynx requires very large areas containing boreal forest habitat and is a specialized predator of the snowshoe hare. The FWS concluded in its Final Rule Notice of Remanded Determination of Status for the Contiguous United States Distinct Population Segment of the Canada Lynx; Clarification of Findings published in the July 3, 2003 *Federal Register* (Volume 68), that the limited number of lynx occurrences in Michigan did not constitute a resident population, but were dispersing animals. Michigan's Upper Peninsula supports boreal forest; however, the extent of habitat is limited and there is limited connectivity with suitable habitat in Canada. In addition, review of lynx occurrence records had provided no verifiable evidence of successful reproduction.

Because dispersing Canada lynx will travel long distances seeking suitable habitat and the lynx has a very large home range of many square miles within suitable habitat, it is

possible that lynx could pass through the project area of the Cataract impoundment at some time. There is no available information, however, to indicate that lynx are currently present or use the project area.

## PRICKETT SMP

### 9.5 THREATENED AND/OR ENDANGERED SPECIES

The FWS technical assistance website for federally-listed threatened and endangered species includes the following on its list of species occurring or potentially occurring in Houghton and Baraga counties:

Houghton County - bald eagle (*Haliaeetus leucocephalus*), threatened; gray wolf (*Canis lupus*), threatened; Canada lynx (*Lynx canadensis*), threatened; Pitcher's thistle (*Cirsium pitcheri*), threatened; and eastern prairie fringed orchid (*Platanthera leucophea*), threatened

Baraga County - bald eagle (*Haliaeetus leucocephalus*), threatened; gray wolf (*Canis lupus*), threatened; Canada lynx (*Lynx canadensis*), threatened; and Kirtland's warbler (*Dendroica kirtlandii*), endangered

Recent review of available species occurrence information, habitat requirements, and results of 2006 field investigations of the project area conducted through E-PRO Engineering & Environmental Consulting, LLC concluded that the Pitcher's thistle, eastern prairie fringed orchid and Kirtland's warbler do not occur within the Prickett Project boundary or on adjacent lands.

#### Bald Eagle

The bald eagle is federally-listed as threatened and listed by the State of Michigan as threatened. An active bald eagle nest was documented within the Prickett Project boundary in 2006. Eagles have nested at several sites near the impoundment or on islands within the impoundment over many years and suitable alternative nest trees are available. Adult and immature eagles use perch trees within the project boundary and likely catch fish from the impoundment.

The area within a 660-foot radius of the nest site has been designated in the SMP as Conservation Area where no development is allowed. Further, SMP management activities will be carried out consistent with provisions of the Bald Eagle Management Plan and Comprehensive Wildlife, Land Use and Recreation Management Plans issued under Article 414 of the Prickett Project License. As such, primary nesting areas (or zones) located immediately around nesting sites and secondary nesting areas extending a minimum radius of 660 feet from the nest will be managed to avoid or minimize disturbance in the vicinity of known bald eagle nests. All land use activities are prohibited in the primary zone at all times. Human disturbance within the primary zone, except for that which is required for bald eagle research and management by qualified individuals will be prohibited from February 1 through September 1 of each year. Motorized access into the primary zone is prohibited at all times.

The secondary zone includes the nest and perching zones associated with the nest site. The secondary zone extends 660 feet in a circle around a nest which has been active sometime within the last 3 years. The known perches around the nest have a protective zone as well extending a 660-foot radius from the perch tree. Land use activities that result in significant changes in the landscape such as clearcutting, land clearing, or major construction, are prohibited at all times in the secondary zone. Closing of roads under the ownership and control of UPPCO will be addressed on a case-by-case basis with the MDNR and the FWS. Unless otherwise designated, a tertiary zone of a ¼-mile radius is maintained around an existing bald eagle nest or documented critical roost and timber harvesting is prohibited unless specifically authorized by the FWS.

Through implementation of the SMP, UPPCO proposes to prohibit commercial timber harvesting on all project lands. Accordingly, previously-used, standing nest trees will not be removed from project lands since they may be reoccupied in the future; supercanopy trees will be maintained within the project area as additional potential nesting habitat. When new nest sites are established within the project boundary, UPPCO will consult with the FWS, MDNR, and other interested agencies to determine what protective measures are appropriate to address existing human presence in the area.

With the addition of the individual and cluster docks at the Prickett impoundment and the recreation enhancements for general public recreation use, increased boating and other recreational activity on the impoundments can be expected. Increased frequency of human activity within the project boundaries resulting from anticipated nearby residential development also can be expected. Even with the establishment of nest protection areas, it is possible that some individuals, knowingly or inadvertently, still may engage in potentially disturbing activities within the nesting zones or in areas where eagles are perching or fishing. Under these circumstances, adult or immature bald eagles could be exposed to recreational activities that may result in nest abandonment or disruption of feeding activity. One of the recreation enhancements the SMP proposes is establishment of a north/south, 20-foot-wide navigation channel through the area of submerged stumps in the impoundment. Dredging the channel and use by boaters could disturb bald eagle perching and feeding activity. Since the specific plans for this project will be developed as a future action and will require separate FERC approval, any potential effects and appropriate conservation measures to avoid or minimize adverse effects will be addressed in consultation with the FWS, MDNR and other interested agencies as plans for the navigation channel project develop.

Conservation Areas represent 79.3% of project lands at the Prickett impoundment which offers substantial suitable habitat for bald eagle perching and feeding as well as potential for nesting. Implementation of the SMP together with the Article 414 Bald Eagle Management Plan and Comprehensive Wildlife, Land Use and Recreation Plans should minimize the likelihood of disturbance to nesting, perching or feeding activities. The measures included in the Article 414 Plans pertaining to the bald eagle are generally consistent with the U.S. Fish and Wildlife Service's 2006 Draft National Bald Eagle Management Guidelines which provide recommendations for land management practices that will benefit bald eagles and how to avoid disturbing them. As additional measures to



avoid potential disturbance to bald eagles nesting, perching and/or feeding within project boundaries, UPPCO will make educational materials available to the public that will emphasize the importance and sensitivity of nesting and feeding areas and encourage cooperation in avoiding disturbance to the eagles. In addition, informational buoys will be placed at the outer edges of primary nesting areas that extend into the impoundments, to discourage boaters from approaching active nests. Under most circumstances, implementation of these management provisions should reduce potential impacts to nesting to a point where they will be undetectable. Outside of nesting territories, perching and feeding eagles should be able to avoid disturbance from recreational activities without any measurable effects.

### Gray Wolf

The gray wolf (*Canis lupus*) is federally-listed as threatened; however, the U.S. Fish and Wildlife Service (FWS) has published a final rule in the *Federal Register* (Volume 72, Number 26, February 8, 2007) that would remove the western Great Lakes Distinct Population Segment (DPS) of the gray wolf from the list of endangered and threatened wildlife. The geographic extent of the DPS includes the Upper Peninsula of Michigan. The final rule could be in effect as early as March 12, 2007. The gray wolf is listed as threatened by the State of Michigan as well.

As indicated in the recent *Federal Register* notice by the FWS, the gray wolf is found in every county of the Upper Peninsula. In addition, the Upper Peninsula wolf population, by itself, has surpassed the recovery criterion for a second non-isolated population in the eastern United States for a minimum of 5 years as well as the Federal criterion for an isolated wolf population.

UPPCO was requested by the agencies to investigate possible impacts to gray wolf habitat and/or populations with regard to increases in recreational development and uses at the hydroelectric projects. The MDNR commented that while gray wolves are habitat generalists and distributed widely in the Upper Peninsula, surveys have shown gray wolves using territory within a mile of the shoreline of the Prickett impoundment. Considering the wide-ranging nature of the wolf, and the extensive potential habitat of the surrounding Ottawa National Forest, it is likely that the gray wolf travels through the project area of the impoundment and may occasionally hunt for prey within the project boundaries. No den or rendezvous sites have been identified on project lands within the project boundary.

As indicated previously, SMP management activities will be carried out consistent with provisions of the Comprehensive Wildlife, Land Use, and Recreation Management Plans issued under Article 414 of the Prickett Project License. Per that plan, UPPCO will consult with the MDNR and FWS to implement the Michigan Gray Wolf Recovery and Management Plan if a gray wolf den or pup rendezvous site(s) is discovered on UPPCO lands within the project boundary. Management techniques such as closure of unnecessary roads for the protection of the gray wolf would be considered if deemed appropriate through those agencies and the Ottawa National Forest.

Increased public recreation use can be expected to occur with implementation of the SMP as well as increased frequency of human activity within the project boundaries as a result of anticipated nearby residential development. The increased human activity may alter the pattern or areas of transient activity by wolves within the project area; however, any effects are not likely to be measurable with the implementation of provisions of the Article 414 Comprehensive Wildlife, Land Use, and Recreation Management Plans and the ongoing, successful conservation measures for the wolf occurring through management of the nearby Ottawa National Forest.

### Canada Lynx

The Canada lynx is federally-listed as threatened and listed by the State of Michigan as endangered. State and Federal natural resource agencies have documented tracks and/or sightings of lynx in recent years in nearby counties of the Upper Peninsula or Wisconsin counties bordering the Upper Peninsula. Review of lynx records and observations by agency staff and researchers indicate that historic and recent lynx occurrences in Michigan have been a result of immigration from lynx populations in Canada and are correlated with population cycles of lynx in Canada.

To sustain a population, the Canada lynx requires very large areas containing boreal forest habitat and is a specialized predator of the snowshoe hare. The FWS concluded in its Final Rule Notice of Remanded Determination of Status for the Contiguous United States Distinct Population Segment of the Canada Lynx; Clarification of Findings published in the July 3, 2003 *Federal Register* (Volume 68), that the limited number of lynx occurrences in Michigan did not constitute a resident population, but were dispersing animals. Michigan's Upper Peninsula supports boreal forest; however, the extent of habitat is limited and there is limited connectivity with suitable habitat in Canada. In addition, review of lynx occurrence records had provided no verifiable evidence of successful reproduction.

Because dispersing Canada lynx will travel long distances seeking suitable habitat and the lynx has a very large home range of many square miles within suitable habitat, it is possible that lynx could pass through the project area of the Prickett impoundment at some time. There is no available information, however, to indicate that lynx are currently present in the project area.



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
East Lansing Field Office (ES)  
2651 Coolidge Road, Suite 101  
East Lansing, Michigan 48823-6316

IN REPLY REFER TO:

September 21, 2007

Mr. Shawn Puzen  
Upper Peninsula Power Company  
700 North Adams Street  
PO Box 19001  
Green Bay, Wisconsin 54307-90001

Re: Endangered Species Act Section 7 Technical Assistance; Draft Shoreline Management Plans for Bond Falls, Prickett, Cataract, Au Train, and Bonoy Falls (FERC Project Nos 1864, 2402, 10854, 10856, and 2506 respectively).

Dear Mr. Puzen:

We appreciate the opportunity to review and comment on your draft Endangered Species Act (Act) section 7 effects determinations for the draft Shoreline Management Plans (SMPs) at the above referenced Federal Energy Regulatory Commission (FERC) licensed hydroelectric basins. This letter provides technical assistance to help you in further development of your endangered species effects determinations or biological evaluations (BEs). It is our understanding that section 7 consultation will be requested by FERC in the future.

The information contained in your BEs addressed the potential affects of implementing the draft SMPs on gray wolf, bald eagle, and Canada lynx. Currently, Canada lynx is the only species that may occur within the action area and which would require section 7 consultation. As of March 12, 2007, wolves in the Western Great Lakes District Population Segment, which includes Michigan, were removed from the federal list of endangered and threatened species. Bald eagles were delisted on August 8, 2007. Wolves and bald eagles no longer receive protection under the Act and section 7 consultation is no longer necessary, so we are only providing section 7 related comments on Canada lynx.

Although bald eagles no longer receive protection under the Act, they are protected by the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act (BGEPA). Activities associated with implementing the SMPs have the potential to disturb bald eagles. Thus, we reviewed the bald eagle portion of your BE and are providing comments below to help clarify your bald eagle protection and management efforts and to highlight activities which may disturb eagles. These comments are provided to help you comply with BGEPA, the FERC licenses or approved plans for these projects may require additional efforts or considerations not addressed below.

Mr. Shawn Puzen

2

Endangered Species Act Comments

Your assessment indicates that there is no available information indicating that Canada lynx are currently present or use the project areas around Bond, Prickett, Cataract, Au Train, Boney, or Victoria impoundments. We agree that if Canada lynx are present in the action areas they are likely limited to a small number of dispersing individuals and that there is no recent or current documentation of lynx breeding. However, detection of a very low number of dispersing individuals may be difficult. We believe that lynx may be present within suitable habitat in the Upper Peninsula and that project assessment for potential effects to lynx is prudent.

Therefore, we recommend you identify any potential lynx habitat within the FERC project boundaries around these basins. We realize that these areas are narrow buffers around the basins, and without adjacent habitat, would not provide large enough habitat areas for lynx. When determining lynx habitat suitability, these impoundment areas should be reviewed within the context of the larger surrounding landscape. If suitable habitat exists around the basins, then you should analyze the potential impacts to that habitat and lynx as a result of implementing the SMPs.

A determination regarding the effect of the project on Canada lynx was not articulated in the draft BE. A determination of no effect, not likely to adversely affect, or likely to adversely affect should be stated and justified in your determination.

National Bald and Golden Eagle Protection Act Comments

Bald eagles receive protection under BGEPA which provides criminal and civil penalties for persons who "take" bald eagles. The definition of "take" under GEPA includes disturb. Disturb means:

"...to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

Your BE and SMPs suggest that increased boating and other recreational activities on or around these basins is expected as a result of implementing the SMPs. Some of the activities described in the SMPs are the development of cluster docks, individual docks, pedestrian trails, and pedestrian pathways. Depending on their location, these new developments, and the people associated with them, could disturb foraging and nesting bald eagles. Therefore, protective measures for bald eagles should be incorporated into the SMPs. Below we provide the important protective measures that were discussed in the BE, potential disturbing activities that require further consideration, and other comments to help clarify your document.

**Protective measures discussed:**

- Commercial timber harvesting will be prohibited around the impoundments allowing previously used nest trees and supercanopy trees to remain.
- A 660 foot radius around existing nest trees will be designated in the SMP as a Conservation Areas where no "development" would be allowed.
- Restricted activities within a 660 foot radius of the nest, including no motorized access, development of recreation facilities, or major project related construction activities (except dam safety related activities) during the breeding season.
- Restricted human entry within 330 feet of a nest, unless needed for eagle monitoring or research, during the breeding season.
- At Boney Falls, the winter bald eagle foraging areas will be delineated and ingress and egress into these areas would be minimized.
- At Boney Falls, the entire east side of the impoundment will be designated as Conservation Area or Project Operations Area. This will provide a continuous habitat area for perching and potential nesting.
- Land use activities that result in significant changes to the landscape such as clear cutting, land clearing, or major construction would be prohibited within 660 feet of a nest.
- Informational buoys will be placed in the water around the outer edges of the primary zone to discourage boaters from approaching active nests. Educational materials will be provided to the public to encourage cooperation in avoiding disturbance to eagles.

The above protective measures should be incorporated into the SMPs.

**Potential disturbing activities:**

- Increased boating and recreational activities on the impoundment could disturb important bald eagle foraging areas. Our May 2007 National Bald Eagle Management Guidelines (Guidelines) suggest avoiding commercial and recreational boating and fishing near critical eagle foraging areas during peak feeding times.
- Development of docks and other long term water facilities (ramps or docks) could impact bald eagle foraging areas. Our Guidelines suggest locating long-term and permanent water dependent facilities away from important eagle foraging areas.
- Under your plan, new nests would not receive the same level of protection as currently occupied nest sites. This could result in disturbance of birds by on-going

Mr. Shawn Puzen

4

- recreational activities. Specifically, the BE states that if a pair of eagles choose to establish a new nest in an area already receiving human use resulting from recreation facilities, there will be no restriction of human activities in that area during the breeding season. Our Guidelines state that some intermittent, occasional, or irregular uses that pre-date eagle nesting in an area may disturb eagles and that activities in those areas may need to be adjusted to avoid disturbance. We recommend as new nests are initiated that area activities and their potential to disturb eagles should be evaluated on a case-by-case basis.
- Activities that create loud noises (such as fireworks) were not addressed in the BE or SMPs. These activities could disturb bald eagles and should be prohibited near nest sites during the breeding season.

We recommend you incorporate and address these concerns in your SMPs. We encourage you to further review the Guidelines and determine if other adjustments in the SMPs are necessary to protect eagles. Bald eagle guidelines and other relevant information can be found online at <http://www.fws.gov/migratorybirds/baldeagle.htm>.

**Other comments:**

- Please define for clarity primary, secondary, and tertiary zones around nest trees. Also, please define critical and moderately critical time periods.
- Your BE states that no development will occur within a 660 foot radius of a nest tree. What are you considering development? We assume all activities discussed in the SMP would be considered "developments." Please clarify.
- Your BE discusses primary and secondary nesting "areas." We believe you are discussing primary and secondary nest zones or buffers around nest trees. Primary and secondary nest areas could also be interpreted as two alternate nest trees. Please clarify.
- At Boney Falls, please explain the nature, extent, and timing of "ingress and egress" through foraging areas and how you intend to minimize these activities.
- Please describe how alternate nest trees will be protected and for what length of time. Our Guidelines suggest the same protection should be provided to alternate nest trees as are provided to active nest trees. Once 5 years of disuse have passed then protection may no longer be warranted.
- In reviewing the BE, we noted various dates for the critical period, moderately critical period, and dates of prohibited entry. We also noted different buffer zone radius' around nest trees. We understand this is due to different language in each of the FERC management plans. We recommend amending this part of each relevant

Mr. Shawn Puzen

5

management plan to reflect the current knowledge regarding important bald eagle nest periods and nest tree buffer zones.

- Future nest locations may not occur in Conservation Areas where "no development" would occur. If these nests occur in an area where paths or seasonal docks were allowed, explain how human disturbance would be avoided. We recommend that new nests are provided a similar level of protection from disturbance as current nests.

We appreciate the opportunity to comment on UPPCO's draft SMPs and BE. If you have further questions or need additional assistance, please contact Ms. Christie DeLoria, at (906) 226-1240.

Sincerely,



Craig A. Czarneski  
Field Supervisor

- cc: U.S. Forest Service, Ottawa National Forest, Iron River, Michigan  
(Attn: Susan Spear)  
Michigan Department of Natural Resources, Marquette Fishery Office, Marquette,  
Michigan (Attn: Jessica Mistak)  
Keweenaw Bay Indian Community, Natural Resources Department, L'Anse, MI  
(Attn: Gene Mensch)  
Michigan Hydro Re-licensing Coalition, Houghton, MI (Attn: Bill Deephouse)  
Federal Energy Regulatory Commission, Washington, D.C (Attn: Robert Fletcher)



Upper Peninsula Power Company

500 North Washington Street

P.O. Box 357

Ishpeming, MI 49849-0357

www.uppco.com

November 19, 2007

Mr. Craig Czarniecki, Field Supervisor  
U.S. Fish and Wildlife Service  
East Lansing Michigan Field Office  
2651 Coolidge Road, Suite 101  
East Lansing, Michigan 48823

Dear Mr. Czarniecki:

Response to Section 7 Technical Assistance; dated September 21, 2007 - Upper Peninsula Power Company Shoreline Management Plan for FERC Project No. 2506 (Boney Falls Hydroelectric Project)

Upper Peninsula Power Company (UPPCO) is in receipt of your technical assistance document on the Draft Shoreline Management Plan for the Federal Energy Regulatory Commission (FERC) Project No. 2506 (Boney Falls).

#### Canada Lynx

As indicated in your letter, UPPCO expects that the FERC will request section 7 consultation with the FWS in the future. The information provided in our April 12, 2007 letter as well as a copy of this letter will be submitted to the FERC for its use in making a determination regarding the effect of the project on federally-listed threatened, endangered, proposed and candidate species. As such, this letter does not include a determination of no effect, not likely to adversely affect, or likely to adversely affect regarding the Canada lynx. UPPCO appreciates your assistance on the consultation and is providing additional information for the FERC to consider in developing its biological evaluation of the project's effects on Canada lynx. The additional information is as follows:

The Canada lynx is federally-listed as threatened and listed by the State of Michigan as endangered. In its county distribution list of federally-listed threatened, endangered proposed, and candidate species in Michigan, the FWS indicated that Delta and Marquette counties are among the Michigan counties having the highest potential for lynx presence. State and Federal natural resource agencies have documented tracks and/or sightings of lynx in recent years in nearby counties of the Upper Peninsula or Wisconsin counties bordering the Upper Peninsula. There is no direct evidence available indicating recent lynx presence within the Boney Falls Project area.

Review of lynx records and observations by agency staff and researchers indicate that historic and recent lynx occurrences in Michigan have been a result of immigration from lynx populations in Canada and are correlated with population cycles of lynx in Canada. The FWS concluded in its Final Rule Notice of Remanded Determination of Status for



the Contiguous United States Distinct Population Segment of the Canada Lynx; Clarification of Findings published in the July 3, 2003 *Federal Register* (Volume 68), that the limited number of lynx occurrences in Michigan did not constitute a resident population, but were dispersing animals. In a recovery outline document the FWS prepared in 2005, the Upper Peninsula of Michigan has been classified as a "peripheral area." The outline's preliminary recovery assessment indicates that some of the peripheral areas "... may provide habitat enabling the successful dispersal of lynx between populations or subpopulations." Suitable connective habitat is needed in sufficient quantity and geographic arrangement to allow easy movement for long distances in search of food, cover and mates.

The area adjacent to the Boney Falls Project is generally in private ownership. Extensive areas of forest and wetlands occur to the west and north of the project area; however, there is fragmentation with various development and agriculture occurring near the project area, primarily to the east and southeast. Units of the Escanaba River State Forest border lands adjacent to sections of the Boney Falls Project area and other forested State and Federal lands, including the Hlawatha National Forest, occur within a radius of 5 to 25 miles.

The narrow project boundary around the Boney Falls Reservoir extends to variable widths from the shoreline from 200 feet to approximately 470 feet. The majority of project lands is forested and is classified as Conservation Area. Forest cover types within the Conservation Area include swamp conifer polelimber, fir/spruce polelimber, aspen polelimber, swamp hardwood polelimber, aspen seedling/sapling, northern hardwoods sawtimber, and lowland brush. Approximately the southern quarter of the project area, including the facility dam and dikes is primarily open upland. Areas classified for Limited Public Path and General Use/Formal Recreation Area are on the west and northwest side of the reservoir within northern hardwood polelimber, fir/spruce polelimber and a small area of lowland brush.

Boney Falls Project lands, as well as adjacent, forested non-project lands and UPPCO Escanaba Hydroelectric Project lands along the river downstream of the Boney Falls Dam, may provide habitat to support snowshoe hares and red squirrels, the primary and secondary prey species for the Canada lynx. Studies conducted during the relicensing of the Escanaba River Hydroelectric Projects, although not recent, recorded the snowshoe hare and red squirrel among the most abundant mammals found in the study area. However, with the growth of trees from 1990 to the current polelimber stage for many of the forest cover types in the project area, the habitat suitability for snowshoe hare likely has been reduced.

The Hlawatha National Forest 2006 Forest Plan indicated that about 52 percent of the Forest is snowshoe hare habitat and 42 percent is red squirrel habitat. Suitable snowshoe hare habitat is available in all the ecological land types identified on the Forest. The same was concluded for the red squirrel, except for the ecological land type that supports the sugar maple, beech, hemlock/white pine forest community.

The Forest Plan indicated that the Hlawatha National Forest has abundant habitat connectivity with few barriers to lynx movements; all forested areas with vegetation from the sapling stage and older will provide an adequate canopy to facilitate lynx movement. The Forest Plan estimated that currently, about 81 percent (685,000 acres) of the Forest is meeting the definition for habitat connectivity; approximately 192,000 acres represents

quality connective habitat where timber harvest and other human disturbances are less likely.

The Forest Plan concluded, based on review of satellite imagery of existing vegetation on the Forest at a landscape level, that "...there are no barriers such as large contiguous open lands that would impede connectivity...Between the Forest's East and West Units, areas managed by Michigan Department of Natural Resources and Fish and Wildlife Service at Seney National Wildlife Refuge, will provide a level of continued and likely secure habitat connectivity."

It is possible that dispersing Canada lynx could pass from the State and Federal-managed lands through the intervening private lands and through the Boney Falls Project area at some time. There appears to be sufficient connected forest habitat in the surrounding area to provide cover; however, the existing open areas to the east, southeast and northeast along with existing human activity and/or development may limit areas for movement to and from those directions. Prey is probably available, but not abundant for a dispersing lynx to obtain food as it seeks more suitable habitat.

Increased public recreation use of the Boney Falls impoundment can be expected to occur with implementation of the SMP as well as increased frequency of human activity within the project boundaries as a result of anticipated nearby residential development. Changes are not likely to occur immediately and may occur gradually over time. The increased human activity may influence the area of lynx transient activity within the project area; however, it is not likely to preclude lynx dispersal through the area. Approximately 19 percent of project lands are designated Conservation Area-Limited Public Trail and most of the Conservation Area is forested. The SMP provides that the forested areas will not be harvested which should maintain cover for potential dispersing lynx. In addition, as succession occurs in many of the forest cover types in the Conservation Area, suitability of habitat for snowshoe hare could improve over time.

The Michigan DNR's 2006 Draft State Forest Management Plan includes a goal to "provide habitat for the conservation, protection, restoration and propagation of all Federal and State listed threatened and endangered species, while also taking into consideration other uses of the forest."

The Hlawatha National Forest developed forest-wide and management area-specific standards and guidelines in its 2006 Forest Plan to include conservation measures that have application for conservation of lynx habitat. Vegetation will be managed to provide for sufficient prey species habitat and lynx foraging habitat in proximity to den habitat in amounts sufficient to be suitable for lynx. Further, sufficient connectivity will be maintained to allow for lynx dispersal and movement.

It is anticipated that any effects to the Canada lynx at the Boney Falls Project are not likely to be measurable with implementation of the SMP as well as Michigan State Forest and Hlawatha National Forest management objectives and conservation measures to provide for lynx habitat connectivity.

#### **Bald Eagle Management**

In your letter, you also provide the important protective measures that were discussed in the information referenced as biological evaluations (BE) in the April 12 UPPCO letter,

potential disturbing activities that require further consideration, and other comment to help clarify our document. The following is UPPCO's responses to potential disturbing activities that require further consideration:

1. Increased boating and recreational activities on the impoundment could disturb important bald eagle foraging areas. Our May 2007 National Bald Eagle Management Guidelines (Guidelines) suggest avoiding commercial and recreational boating and fishing near critical eagle foraging areas during peak feeding times.

**Response:** *The reservoirs are currently being utilized for boating activities and recreational activities. There may be an increase in boating activity due to the proposed activities that should occur over a number of years. As the Guidelines indicate, not all bald eagles react to human activities in the same way. Those eagles that are more sensitive to human activity will most-likely nest in areas where human activity is less, such as the numerous acres within the project boundary that has been designated Conservation-Limited Public Trail. UPPCO has not identified through literature review or field study any areas of critical eagle foraging areas within the project boundary in areas expected to be disturbed through the activities permitted in the SMPs. According to the guidelines, the effect from human disturbance to eagle feeding areas is greater when there are no other undisturbed and productive feeding and roosting sites available. UPPCO has designated numerous acres within the project boundaries at all projects as Conservation-Limited Public Trail which serves to provide additional opportunities for undisturbed and productive feeding and roosting sites.*

2. Development of docks and other long-term water facilities (ramps or docks) could impact bald eagle foraging areas. Our Guidelines suggest locating long-term and permanent water-dependent facilities away from important eagle foraging areas.

**Response:** *UPPCO has not identified through literature review or field study any areas of critical eagle foraging areas within the project boundary in areas expected to be disturbed through the activities permitted in the SMPs. According to the Guidelines, the effect from human disturbance to eagle feeding areas is greater when there are no other undisturbed and productive feeding and roosting sites available. UPPCO has designated numerous acres within the project boundaries at all projects as Conservation-Limited Public Trail which serves to provide additional opportunities for undisturbed and productive feeding and roosting sites.*

3. Under your plan, new nests would not receive the same level of protection as currently occupied nest sites. This could result in disturbance of birds by on-going recreational activities. Specifically, the BE states that if a pair of eagles choose to establish a new nest in an area already receiving human use resulting from recreation facilities, there will be no restriction of human activities in that area during the breeding season. Our Guidelines state that some intermittent, occasional, or irregular uses that pre-date eagle nesting in an area may disturb eagles and that activities in these areas may need to be adjusted to avoid disturbance. We recommend as new nests are initiated that area activities and their potential to disturb eagles should be evaluated on a case-by-case basis.

**Response:** *The Guidelines use an annual (once per year) outdoor flea market as an example of intermittent, occasional, or irregular use. The activities expected to occur as*

a result of the allowed uses in the SMP do not meet the description of intermittent as outlined in the Guidelines, or occasional, or irregular activities as outlined in the Guidelines. However, UPPCO is willing to evaluate new nests on a case-by-case basis regarding ongoing activities in the vicinity of the nest site and consider any warranted actions within its control regarding public education efforts and/or temporary restrictions of access or activity. In addition, the Guidelines list additional recommendations to benefit bald eagles. The first additional recommendation is to "Protect and preserve potential roost and nest sites by retaining mature trees and old growth stands, particularly, within 1/2 mile from water." All activities permitted and prohibited within the SMPs are in direct compliance with the above recommendation on all project lands.

4. Activities that create loud noises (such as fireworks) were not addressed in the BE or SMPs. These activities could disturb bald eagles and should be prohibited near nest sites during the breeding season.

**Response:** As a general rule, UPPCO has not in the recent past nor intends to permit firework displays originating from the project land. As indicated in the April 12 letter, UPPCO will make educational materials available to the public that will emphasize the importance and sensitivity of nesting and feeding areas and encourage cooperation in avoiding disturbance to the eagles. Discouraging loud noises, such as fireworks will be included in those materials.

We recommend you incorporate and address these concerns in your SMPs. We encourage you to further review the Guidelines and determine if other adjustments in the SMPs are necessary to protect eagles. Bald eagle guidelines and other relevant information can be found online at <http://www.fws.gov/migratorybirds/baldeagle.htm>.

**Response:** UPPCO has reviewed the bald eagle management guidelines dated May 2007 to determine if any adjustments to the SMPs should be made for the further protection of Bald Eagles on the project land.

The following are UPPCO's responses to other comments to help clarify our document:

1. Please define for clarity primary, secondary, and tertiary zones around nest trees. Also, please define critical and moderately critical time periods.

**Response:** The primary, secondary, and tertiary zones are defined within the respective project management plans for protection of the bald eagle.

2. Your BE states that no development will occur within a 660 foot radius of a nest tree. What are you considering development? We assume all activities discussed in the SMP would be considered "developments." Please clarify.

**Response:** The statement in the BE is intended to mean no new development as a result of the SMP activities. This is accomplished in the SMPs by designating these areas as Conservation-Limited Public Trail.

3. Your BE discusses primary and secondary nesting "areas." We believe you are discussing primary and secondary nest zones or buffers around nest trees. Primary and secondary nest areas could also be interpreted as two alternate nest trees. Please clarify.

**Response:** *In the BE, the term "area" is interchangeable with the term "zone."*

4. At Boney Falls, please explain the nature, extent, and timing of "ingress and egress" through foraging areas and how you intend to minimize these activities.

**Response:** *At Boney Falls, according to relicensing documentation (Map A-50), a majority of the foraging areas within the project boundary occur either downstream or on the east shore of the reservoir. The entire east shore that is not utilized for existing recreation or project operations has been designated as Conservation-Limited Public Trail. By its designation, the Conservation-Limited Public Trail designation minimizes ingress and egress into those areas because the only additional activity that is allowed is the possible creation of a public trail. The public trail would only be allowed through consultation with the resource agencies.*

5. Please describe how alternate nest trees will be protected and for what length of time. Our Guidelines suggest the same protection should be provided to alternate nest trees as are provided to active nest trees. Once five years of disuse have passed then protection may no longer be warranted.

**Response:** *Any unoccupied nest tree is protected and treated according to the approved bald eagle protection requirements outlined in the approved project bald eagle, wildlife, forest, and/or land use management plans as an occupied tree for at least five years or until it is unoccupied consistently for at least five years.*

6. In reviewing the BE, we noted various dates for the critical period, moderately critical period, and dates of prohibited entry. We also noted different buffer zone radiuses around nest trees. We understand this is due to different language in each of the FERC management plans. We recommend amending this part of each relevant management plan to reflect the current knowledge important bald eagle nest periods and nest tree buffer zones.

**Response:** *UPPCO does not plan to amend any of the management plans at this time to make them consistent. The proposed SMP does not require that the plans be modified to make them consistent with each other. Although there is some variability in the critical period dates and buffer zone radiuses within the management plans, they all are protective of eagle sensitivity to human disturbance per agreement by the natural resources agencies and are consistent with the intent of the Guidelines.*

7. Future nest locations may not occur in Conservation Areas where "no development" would occur. If these nests occur in an area where paths or seasoned docks were allowed, explain how human disturbance would be avoided. We recommend that new nests are provided a similar level of protection from disturbance as current nests.

**Response:** *According to the Guidelines, "Eagles are unlikely to be disturbed by routine use of roads, homes and other facilities where such use pre-dates the eagles' successful nesting activity in a given area. Therefore, in most cases, ongoing existing uses may proceed with the same intensity with little risk of disturbing eagles. However, some intermittent, occasional, or irregular uses that pre-date eagle nesting in an area may disturb bald eagles." As stated earlier, the Guidelines use an annual (once per year)*

*outdoor flea market as an example of intermittent, occasional, or irregular use. The activities expected to occur as a result of the allowed uses in the SMP do not meet the description of intermittent as outlined in the Guidelines, or occasional, or irregular activities as outlined in the guidelines. If bald eagles nest in areas of paths or docks, UPPCO will evaluate the situation and impose any warranted restrictions for the nesting-fledging period and consider long term permit modifications to the path or dock locations in consultation with the agencies.*

Should you have any questions, please do not hesitate to contact me at (920) 433-1094.

Sincerely,



Shawn C. Puzen  
Environmental Consultant  
Integritys Business Support LLC