



Cisco Chain Riparian Owners Association

P.O. Box 687

Watersmeet, MI 49969-0687

www.ciscochainroa.com

Cisco Dam Purchase – January 2017 Update

As noted in prior Shore Lines issues, UPPCO/Integrays submitted an application to the Federal Energy Regulatory Commission (FERC) in June 2012. The application requested approval to remove the Cisco Dam from the FERC license and to transfer ownership to the CCROA. On October 12, 2012, FERC issued a public notice indicating the application was available for review and comment. The public comment period ended 30 days following the notice.

Comments were received from the Michigan DNR, Wisconsin DNR, U.S. Fish and Wildlife Service, Michigan Hydro Relicensing Coalition, and the U.S. Forest Service. Those agencies, also referred to as the “resource agencies,” participate on the Bond Falls Implementation Team (BFIT), which serves as an oversight committee for implementation of license requirements. Comments were also received from the Lake Gogebic Improvement Association, Northwoods Alliance, Inc., and two individuals.

All commenters, including the resource agencies, opposed the application. Several of the agencies also filed motions to intervene. The primary issues noted in the comments were:

- Required funding and installation of the fixed-crest weir prior to ownership transfer as specified in the FERC license Settlement Agreement;
- Owner understanding of liability, operation, maintenance and reporting requirements and stable funding sources for operation and maintenance costs;
- Long-term, stable ownership – comments noted neither Gogebic County nor Watersmeet Township are interested in owning the dam. The UPPCO application was predicated on dam ownership being transferred from CCROA to Gogebic County.

Per FERC procedures, UPPCO/Integrays began good faith negotiations with BFIT members in January 2013, to resolve the issues identified in their comment letters. By letter dated April 11, 2013, UPPCO/Integrays notified FERC that good faith negotiations had begun and would continue until July 31, 2013. Included with that letter was a conceptual design for a fixed-crest weir to replace the current dam structure. The design was developed by the U.S. Forest Service in an attempt to balance the resource agencies’ requirements for downstream flow in the river against the CCROA requirements for limited change in lake levels within the Cisco Chain (those lake level requirements are currently built into the FERC license).

The U.S. Forest Service developed a cost estimate of \$700,000 for the weir proposed in their conceptual design. That information was distributed to BFIT members in May 2013. Members of the BFIT agreed the \$700,000 price tag is untenable in that no party is willing to bear the cost beyond UPPCO’s required contribution, per the Settlement Agreement associated with the license. UPPCO/Integrays has estimated that amount to be ~ \$115,000.

UPPCO/Integrays developed an alternate proposal for a weir which seems very similar to dam operation procedures prior to the upgrades performed in 2009. Their proposal would place boards in the existing dam at a level of 1683ft. High water would flow over the boards to maintain the 1863ft lake level and

provide a continuous stream flow. Periods of heavy water flow would require the manipulation of the boards to more rapidly increase flow and reduce excessive lake levels.

The UPPCO proposal has almost no capital costs, but operating and maintenance costs would be greater than for the fixed crest weir design. That cost was estimated to range between \$5,000 and \$25,000 per year, depending upon the monitoring requirements (e.g. USGS stream gauges) that might transfer to the new owners. Operation of the stream gauges currently costs \$19,000 per year alone. If an acceptable fixed crest weir were in place the gauges would likely not be needed.

The BFIT held a meeting on June 17, 2013; its purpose was to evaluate weir options, including the Forest Service and UPPCO proposals, and reach some resolution prior to the end of the good faith negotiation period on July 31, 2013. There were insufficient members present to meet quorum requirements, so no formal decision could be reached.

However, a number of interested parties attended the meeting to observe the proceedings. Including five members of the CCROA board, three Watersmeet Township representatives, two representatives from the Gogebic County Road Commission and several members of the general public. Absent the required quorum, the BFIT membership was gracious enough to field questions from the observers. Questions asked by the observers brought to light the complexities associated with the overall proposal to remove the dam from the license. Notable items include:

- UPPCO/Integrays is viewing this solely from a business perspective, as is to be expected. The requirements in the license (negotiated by the CCROA) that restricts changes in Cisco Chain water level eliminates the company's ability to draw down water below the established 1863ft level when they need it during peak power generation. Absent that ability, UPPCO/Integrays feels it cannot continue to include in its customer rate charges the cost of maintaining the Cisco Dam. UPPCO/Integrays estimates their cost to keep the dam in the license for its remaining duration (30 years) is ~ \$1.3 million.
- UPPCO does not want to be responsible for the final design of any approved weir, nor its installation. Their representatives repeatedly stated during the June 17th meeting they just want to "write the check and walk away." If the dam is removed from the FERC license, MI DEQ will become the regulating authority for the dam or any weir that replaces it. MDEQ regulations require that agency approve both conceptual and final designs for dams/weirs. If dam ownership is transferred prior to MDEQ's approval of weir designs, any modifications required by MDEQ will likely be the responsibility of the dam's new owners.
- While not unheard of, transferring regulatory authority from FERC to MDEQ is a process that occurs infrequently. Working out the details of said transfer could add time to the overall process
- The resource agencies are still concerned about the dam's new owners' understanding of liability, maintenance and reporting requirements and ability to obtain stable funding for those costs. These concerns did not appear to be alleviated during the June 17th meeting.
 - In response to a pointed question about funding, representatives indicated the CCROA has ~ \$365,000 in an account dedicated to the dam, resulting from donations by ~ 170 CCROA members. Considering the CCROA has over 400 members and that contributions came from less than half the membership, this seemed to validate concerns about a stable funding source. It was also noted that additional pledges would bring that total to over \$500,000. The monies are dedicated solely for operation and maintenance of the dam. As such, they are maintained in



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an account separate from other CCROA funds and will be managed by a separate Board of Directors. The CCROA can, at this time, obtain liability insurance to protect the organization in the event of a loss.

- Gogebic County representatives reiterated the County has no plans to become involved with ownership of the Cisco Dam.

Although it was stated nothing would be completely removed from the negotiating table, CCROA representatives at the June 17th meeting did indicate the \$700,000 price tag for the USFS proposed weir would not be born by the organization. The CCROA would be open to a transfer of ownership after all requirements in the license have been met.

UPPCO/Integrys representatives indicated they would continue to pursue removal of the dam from the FERC license, regardless of whether CCROA was still interested in ownership. The resource agencies indicated the need for installation of a weir would remain on the table if the dam were to be removed from the FERC license, regardless of whether a new owner was identified for the dam or who that new owner would be.

As stated previously, good faith negotiations ended July 31, 2013. UPPCO/Integrys had the option to extend those negotiations. During the June 17th meeting, an UPPCO/Integrys representative indicated they would need to consider whether it was worthwhile to extend negotiations beyond July 31. If any members of the BFIT are unhappy with a FERC decision, they could appeal to the courts. This process could continue for some time into the future.

While the discussions that remain are between UPPCO/Integrys, the resource agencies, and FERC, the outcome of those discussions could change the terms of the agreement negotiated between the CCROA and UPPCO/Integrys regarding dam ownership and operation. This is something the CCROA will be watching closely, and may involve its participation in additional negotiations.

All information has been submitted to FERC for a final decision. In fact, just after this update was written, FERC made its ruling. This ruling appears in the link after this one on our Latest News Page.