



Upper Peninsula Power Company
700 North Adams Street
P.O. Box 19001
Green Bay, WI 54307-9001

June 14, 2012

FERC Project No. 1864

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

Dear Secretary Bose:

Request for Amendment - Removal of Cisco Dam from the Bond Falls Hydroelectric Project

Enclosed is an application for license amendment for the Bond Falls Hydroelectric Project (FERC Project No. 1864). The purpose of the amendment application is to request approval to remove the Cisco Dam from the Bond Falls Hydroelectric Project.

Upper Peninsula Power Company (UPPCO) consulted with the member of the Bond Falls Implementation Team and the Michigan SHPO on the application. Documentation of Consultation is included in Appendix E of the application.

Should you have any questions, please do not hesitate to contact Shawn Puzen at (920) 433-1094 or scpuzen@integrysgroup.com

Sincerely,

A handwritten signature in black ink, appearing to read "T. Jensky".

Terry P. Jensky
Vice President – Generation Assets
for Wisconsin Public Service Corporation

SCP

Enc.

cc: Ms. Patricia Grant, FERC - Chicago
Mr. Gil Snyder, WPS
Mr. Virgil Schlorke, UPPCO
Mr. Norman Nass, USDA-FS
Mr. Kerry Spees, IBS
Mr. Stephen Gilbert, WDNR
Mr. Jim Melchiori, UPPCO
Mr. Kyle Kruger-MDNR
Ms. Cheryl Laatsch, WDNR
Mr. Greg Egtvedt, IBS

**Application for
License Amendment**

**REMOVAL OF THE CISCO DEVELOPMENT FROM
THE BOND FALLS HYDROELECTRIC PROJECT
FERC Project No. 1864**

**Submitted To:
Federal Energy Regulatory Commission**



May 2012

Application for License Amendment

for

REMOVAL OF THE CISCO DEVELOPMENT FROM THE BOND FALLS HYDROELECTRIC PROJECT FERC Project No. 1864

By:

Upper Peninsula Power Company

June 2012

TABLE OF CONTENTS

Proposed Project Purpose..... 1

Reasons for the Proposal 2

Article 201: Annual charges on Federal Lands associated with the Cisco Development..... 2

Article 301: Construction of Remedial Measures..... 2

Article 401: Water Elevation Requirements 2

Article 402: Minimum Flow Requirements 2

Article 403: Dry Year Consultation Process..... 2

Article 404: Operations Monitoring Plan 3

Article 405: Victoria Downstream Fish Protection Device 3

Article 406: Reservoir Drawdown Plan 3

Article 407: Cisco Dam Operation Plan 3

Article 408: Water Quality Monitoring Standards downstream of the Cisco Dam 3

Article 409: Water Quality Monitoring Plan 3

Article 410: Erosion and Sedimentation Control Plan 3

Article 411: Nuisance Plant Control Plan 3

Article 412: Woody Debris Transport and Management Plan 4

Article 413: Buffer Zone Plan 4

Article 414: Wildlife and Land Management Plan 4

Article 415: Threatened and Endangered Species Protection and Enhancement Plan 4

Article 416: Recreation Plan..... 4

Article 417: Bond Falls Implementation Team Oversight 5

Article 418: Section 18 Fishway Reservation 5

Article 419: Historic Resource Management Plan 5

Article 420: Dispute Resolution..... 5

Article 421: Responsibility Fund 5

Article 422: Standard Land Use Article 5

Unnecessary for Operation of the Hydroelectric Project 6

History..... 6

Water Quality Certification 7

Coastal Zone Consistency Determination 7

Section 4(e) 7

Acquisition, Maintenance and Operation Statement..... 8

Proposed Project 10

Cisco Development 10

Project Facilities and Existing Operation 10

Affected Environment	11
Geology and Soils	11
Water Quality and Quantity	11
Fisheries and Aquatic Resources	11
Vegetation	11
Wildlife	12
Threatened and Endangered Resources	12
Cultural Resources	12
Visual and Aesthetic Resources	12
Recreational Resources	13
Socioeconomic Resources	13
Dam Safety	13
Environmental Consequences	14
Geology and Soils	14
Water Quantity and Quality	14
Dry-Year Consultation	14
Fisheries and Aquatic Resources	15
Reservoir Elevations	15
Minimum Flow Requirements	15
Woody Debris Transport and Management	15
Section 18 Fishway Reservation	15
Vegetation	16
Buffer Zone Vegetation	16
Wetland Vegetation	16
Invasive Species	16
Wildlife Management	17
Threatened and Endangered Resources	17
Cultural Resources	17
Cisco Dam	17
Protection of Known Sites and Ground-disturbing Activity	18
Recreational Resources	18
Socioeconomic Resources	18
Exhibits A, F, and G	18
Dam Safety Inspections	18
Cumulative Effects/Conclusion	19
Comments on Application	20

List of Appendices

Appendix A Gogebic County Board Minutes.....
Appendix B Pictures Depicting Repaired Dam
Appendix C Approved Exhibit G Drawing
Appendix D Map Depicting UPPCO ownership at Cisco Development
Appendix E Documentation of Consultation

Proposed Project Purpose

On August 20, 2003, the Federal Energy Regulatory Commission (FERC) issued an Order Approving Settlement and Issuing a new license for the Bond Falls Hydroelectric Project (FERC Project No. 1864). The Bond Falls Hydroelectric Project has a capacity of 12 megawatts and is located on the Ontonagon River in Ontonagon and Gogebic Counties, of Michigan and Vilas County of Wisconsin.

The Bond Falls Hydroelectric Project includes the Bond Falls Development, the Bergland Development, the Cisco Development, and the Victoria Development. The Victoria Development is the only development that generates electricity at the project. The original purposes of the other developments are to provide water storage for electric generation at Victoria.

There are 157.59 acres of Federal Lands that are located in the Ottawa National Forest and are part of the Cisco Development.

The August 20, 2003 Order included the Cisco Development as part of the entire Bond Falls Hydroelectric Project. The Order also summarizes and incorporates a condition of the approved Settlement Agreement regarding the future ownership of Cisco Dam and states the following:

The Agreement also states that UPPCO will attempt, with the Settlement Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the project license. However, the Agreement recognizes that any new owner shall be required to operate the dam according to the Operating Plan developed by the Settlement Team. If UPPCO files with the Commission to have Cisco Dam removed from the project license, UPPCO will be required to install and finance up to \$75,000 (in December 1988 dollars) for a new 75-foot-long, fixed-crest spillway structure. Further, if UPPCO decides to pursue removal of Cisco Dam from the project license, UPPCO will be required to file a license amendment, that should include: (1) the reasons for removing Cisco Dam from the project license; (2) a description of the effects that removing Cisco Dam from the project would have on project operation and economics, and other resources such as recreation; (3) a statement of how Cisco Dam would be acquired (e.g., fee simple sale, etc.), maintained, and operated; and (4) consultation with and comments from the Bond Falls Project Implementation Team, Cisco Chain Riparian Owners Association, other federal, state, and local agencies, non-governmental organizations, and other appropriate parties.

Reasons for the Proposal

The Licensee of the Bond Falls Hydroelectric Project (Upper Peninsula Power Company or UPPCO) has executed an Asset Sale Agreement (ASA) that is contingent upon Commission approval of the proposal to remove the Cisco Development from the Project Boundary. The ASA has been executed between UPPCO and the Cisco Chain Riparian Owners Association (CCROA) for them to facilitate the purchase of the Cisco Dam. UPPCO has been in consultation with the members of the Bond Falls Implementation Team (BFIT) about the potential transfer of ownership. The purpose of this proposal is to request a license amendment as required to remove the Cisco Dam, remove all project property associated with the Cisco Development from the license and remove all references to the project from the license and its associated compliance plans.

UPPCO is pursuing this proposal, because the facility and its associated project lands are not necessary for the operation of the hydroelectric project as a whole and do not contribute significantly to requirements of the hydroelectric project as a whole. This is demonstrated by the Cisco Developments limited participation in the license articles, limited participation in the license's associated compliance plans, and its operation not having a significant effect on power generation at the Victoria Development. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project.

The Cisco Dam is specifically listed in the following license articles and compliance plans:

Article 201: Annual charges on Federal Lands associated with the Cisco Development

UPPCO currently pays an annual charge for use of federal lands at the Cisco Development for 157.59 acres.

Article 301: Construction of Remedial Measures

UPPCO shall not implement any drawdown scenarios at Bond Falls or Victoria until remedial measures are constructed. In addition, the operation monitoring plan under Article 404 and the Drawdown Plan under Article 406 cannot be developed for any of the developments (including the Cisco Development) until the last remedial measure is constructed. The last remedial measure will be constructed at Victoria in 2012.

Article 401: Water Elevation Requirements

The water elevation requirements for the Cisco Development require UPPCO to maintain Cisco Lake at or above elevation of 1683.0 feet msl, with a target elevation between 1683.4 to 1683.1 feet msl.

Article 402: Minimum Flow Requirements

There is no minimum flow requirement for the Cisco Development.

Article 403: Dry Year Consultation Process

Reducing the Cisco Lake elevation is the last of six options for maintaining the 200 cfs minimum flow at Victoria. During dry year consultation that has occurred since 2003, UPPCO has not ever reduced the Cisco Lake Elevation to maintain the 200 cfs minimum flow at Victoria because of availability of water in other storage reservoirs and the landowner sensitivity to fluctuating water levels.

Application for License Amendment – Cisco Development

Article 404: Operations Monitoring Plan

UPPCO is currently operating the facilities under the requirements of the license without an approved Operations Monitoring Plan. The plan has not yet been developed because the remedial measures required under Article 301 for Victoria have not been fulfilled.

Article 405: Victoria Downstream Fish Protection Device

There are no specific requirements for the Cisco Development in Article 405.

Article 406: Reservoir Drawdown Plan

UPPCO is currently operating the facilities under the requirements of the license without an approved Reservoir Drawdown Plan. The plan has not yet been developed because the remedial measures required under Article 301 for Victoria have not been fulfilled.

Article 407: Cisco Dam Operation Plan

The Cisco Dam Operation Plan was approved by Order dated July 9, 2004. It includes provisions for:

- Taking and recording local headwater elevations and discharge readings
- Recording discharge adjustments
- Rate of plank removal
- Remote headwater elevation and discharge measurements
- Seasonal timing of adjustments before ice cover
- Dry-year consultation operation parameters

Article 408: Water Quality Monitoring Standards downstream of the Cisco Dam

The article requires that the dissolved oxygen levels in the discharges from the Cisco Dam be above 5 mg/L at all times.

Article 409: Water Quality Monitoring Plan

The approved Water Quality Monitoring Plan does not include any specific monitoring requirements for the Cisco Development.

Article 410: Erosion and Sedimentation Control Plan

The Erosion and Sedimentation Control Plan requires a survey of the shoreline for erosion every five years. The plan requires implementation of any control measures according to the direction of the members of the BFIT and gives direction to implement Best Management Practices (BMP's) during any ground-disturbing activities.

The previous survey did not identify the need for any control measures at the Cisco Development. The likelihood of identifying erosion areas on the Cisco Development is low because of the shallow slopes of the shorelines on the development.

Article 411: Nuisance Plant Control Plan

Currently, UPPCO surveys the Cisco Development every three years for the presence of purple loosestrife and Eurasian watermilfoil. The presence of purple loosestrife has not yet been identified on the Cisco Development, but Eurasian water milfoil has been present in certain lakes since prior to 2003.

Article 412: Woody Debris Transport and Management Plan

The Woody Debris Transport and Management Plan was approved by FERC Order dated February 20, 2004. The approved plan states specific requirements for the Cisco Development as follows: “The Cisco Chain of Lakes has little or no woody debris. Any that does accumulate at the dam is passed through the dam into the Cisco Branch of the Ontonagon River. IF a log is too large to pass, UPPCO personnel will pull it to the shore, cut it into manageable lengths, and place it in the Cisco Branch of the Ontonagon River downstream of the dam.”

Article 413: Buffer Zone Plan

The Buffer Zone Plan was approved by Order dated February 23, 2005. The management objective of the plan is to achieve old-growth forest characteristics on UPPCO-owned land within the project boundary. A 200-foot buffer zone along the water on the UPPCO-owned land in the Cisco Development has been established. Specific restrictions on vegetation management are imposed within the buffer zone.

The buffer zone plan also makes the following statement pertaining to the Cisco Development: “UPPCO is evaluating the sale of the Cisco Dam and Development. In the event that the Cisco Development is removed from the Hydroelectric Project, UPPCO will be relieved of the requirement to maintain a buffer zone on lands within the Cisco Development.”

Article 414: Wildlife and Land Management Plan

The Wildlife and Land Management Plan was approved by FERC Order dated February 4, 2005. The purpose of the plan is to outline land use and wildlife concepts, considerations and techniques to be implemented on UPPCO properties held in fee within the Bond Falls Hydroelectric Project including the Cisco Development.

The Wildlife and Land Management Plan also makes the following statement pertaining to the Cisco Development: “UPPCO is evaluating the sale of the Cisco Dam and Development. In the event that the Cisco Development is removed from the Hydroelectric Project, UPPCO will be relieved of the requirement to maintain a buffer zone on lands within the Cisco Development.”

Article 415: Threatened and Endangered Species Protection and Enhancement Plan

The Threatened and Endangered Species Protection and Enhancement Plan was approved by the FERC on October 6, 2005. The plan outlines specific management guidelines at the Cisco Development for Gray Wolf, Bald Eagle, and Osprey species.

The Threatened and Endangered Species Protection and Enhancement Plan has the following statement pertaining to the Cisco Development: “UPPCO is evaluating the sale of the Cisco Dam and Development. In the event that the Cisco Development is removed from the Hydroelectric Project, UPPCO will be relieved of the requirement to maintain a buffer zone on lands within the Cisco Development.”

Article 416: Recreation Plan

The Recreation Plan was approved by the FERC on November 29, 2005. The plan provides for a list of existing recreation facilities that are required to be maintained or improved. The Cisco Development does not have any recreational facilities as part of the recreation plan.

Article 417: Bond Falls Implementation Team Oversight

The Bond Falls Implementation Team consists of a member from the following agencies/organizations: Michigan Department of Natural Resources, U.S. Fish and Wildlife Service, Keweenaw Bay Indian Community, Wisconsin Department of Natural Resources, the USDA- Forest Service, and UPPCO. The Michigan Hydro Relicensing Coalition as holds a position as an ex-officio member.

Article 418: Section 18 Fishway Reservation

Authority is reserved by the Commission to require the licensee to construct, operate and maintain, or to provide for such fishways as may be prescribed by the Secretary of the Interior under Section 18 of the Federal Power Act.

Article 419: Historic Resource Management Plan

The Historic Resource Management Plan was approved by the FERC on October 8, 2004. The plan includes requirements to be followed during maintenance to the facilities and ground-disturbing activities on land owned by UPPCO. Since the Cisco Development facility is not eligible for the National Register of Historic Places, there are no specific requirements that apply to the Cisco Dam. UPPCO has already completed a Phase I survey of the property under ownership of UPPCO at the Cisco Development and has not identified any known archaeological sites.

Article 420: Dispute Resolution

This requires UPPCO to follow the procedural requirements found in Section 9.3 of the Settlement Agreement.

Article 421: Responsibility Fund

This requires UPPCO to establish a responsibility fund for the project.

Article 422: Standard Land Use Article

The Standard Land Use article applies to property within the project boundary under the ownership of UPPCO. At the Cisco Development, this article only applies to the 7.85 acres of land under the ownership of UPPCO.

Unnecessary for Operation of the Hydroelectric Project

UPPCO currently operates the Cisco Development under the conditions of the license for shoreline and protection of docks. The reservoir is annually lowered to the lower end of the allowable reservoir elevation limit prior to ice formation each year. The releases from the reservoir are fluctuated by the removal of boards based upon increases and decreases of inflow from the watershed. Any installation of a fixed-crest spillway will require the complete reconstruction of the dam and will still result in fluctuations of the reservoir level.

As part of the license application, UPPCO developed an Integrated Operations Study dated May 1991 as part of the license application. The purpose of the study was to utilize models to assess the impacts of the proposed revised operating criteria for the Bond Falls Hydroelectric Project and its developments on system flows, reservoir elevations, and energy generation at the Victoria Development.

The study concluded that the drawdown associated with the Cisco Development is provided principally for the protection of riparian landowner shoreline facilities from ice damage. Operation is not dictated by, nor does it have a significant effect on power generation at the Victoria Development. This statement is further supported by modeling estimates in the Cisco Dam Operation Study provided by UPPCO during relicensing (May 1991).

The Cisco Dam Operation Study analyzed the reduction in power generation at Victoria associated with two drawdown scenarios at the Cisco Development and numerous minimum flow release requirements at the Cisco Dam. The two drawdown scenarios analyzed were a 12-inch drawdown and a 6-inch drawdown. The six-inch drawdown with a minimum flow requirement of zero is the operation scenario that is required by the current license.

Although the Cisco Operation Study does not provide a value of the generation produced at Victoria as a result of the six-inch winter drawdown that is specified in the license, the study analyzes the difference in generation at Victoria between a six-inch drawdown and a 12-inch drawdown at the Cisco Development. The historical operating scenario of the Cisco Development prior to license issuance was 12 inches.

The Cisco Operation Study estimated the loss of generation at Victoria as a result of the reduced drawdown at the Cisco Development (12-inch drawdown to a 6-inch drawdown) was 135 MWh per year. With an average annual generation at the Victoria Development of 72,270 MWh, the reduction is a negligible or almost incalculable amount at 0.18 percent of the total generation at Victoria. This estimated 0.18 percent is for the difference between a 12-inch drawdown at the Cisco Development and a 6-inch drawdown. It is expected that the electric generation benefit associated with the current six-inch drawdown as allowed by license is also negligible or less.

History

UPPCO's proposal to transfer the ownership of the Cisco Development to another owner was contemplated in the Settlement Agreement as incorporated into the license by the Order Approving Settlement and Issuing New License dated August 20, 2003 by stating the following paraphrasing the language in section 3.1.4.3 of the Settlement Agreement:

The Agreement also states that UPPCO will attempt, with the Settlement Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the project license. However, the Agreement recognizes that any new owner shall be required to operate the dam according to the Operating Plan developed by the Settlement Team. If UPPCO files with the Commission to have Cisco Dam removed from the project license, UPPCO will be required to install and finance up to \$75,000 (in December 1988 dollars) for a new 75-foot-long, fixed-crest spillway structure. Further, if UPPCO decides to pursue removal of Cisco Dam from the project license, UPPCO will be required to file a license amendment, that should include: (1) the reasons for removing Cisco Dam from the project license; (2) a description of the effects that removing Cisco Dam from the project would have on project operation and economics, and other resources such as recreation; (3) a statement of how Cisco Dam would be acquired (e.g., fee simple sale, etc.), maintained, and operated; and (4) consultation with and comments from the Bond Falls Project Implementation Team, Cisco Chain Riparian Owners Association, other federal, state, and local agencies, non-governmental organizations, and other appropriate parties.

The actual Settlement Agreement **Section 3.1.4.3 Cisco Dam Ownership and Operation Under Any New Owner**, states the following:

UPPCO will attempt, with the Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the Bond Falls Project license. Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team. If Cisco Dam is removed from the license and operated by a new owner, UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.

Water Quality Certification

UPPCO requested a Section 401(a)(1) water quality certification from the MDNR by letter dated April 10, 1986. The MDNR did not grant certification within one year after the date of the request. Because the MDNR did not grant certification within one year after the date of the initial request, the agency is deemed to have waived certification for this project pursuant to the Commission's regulations at 18 CFR Section 4.38(f)(7)(ii).

Coastal Zone Consistency Determination

UPPCO requested certification under Michigan's Coastal Zone Management Act program by letter dated April 14, 1997. The program indicated the hydroelectric project is located outside of Michigan's coastal boundary. The MDEQ further noted that no adverse impacts to coastal resources are anticipated from this project.

Section 4(e)

On May 14 and 22, 2001, the USDA Forest Service filed preliminary terms and conditions that it deemed necessary for the protection and utilization of the Ottawa National Forest.

Acquisition, Maintenance and Operation Statement

UPPCO is proposing to remove the Cisco Dam and the 7.85 acres owned in fee from the Bond Falls Hydroelectric Project. If the Cisco Development is removed from the hydroelectric project, it will transfer fee simple ownership of the Cisco Dam and the adjacent lands owned by UPPCO to the Cisco Chain Riparian Association (CCROA) who will immediately deed ownership to Gogebic County. Gogebic County plans to sign a 99-year lease with the CCROA to operate the facility (See Appendix A for a copy of the Lake Gogebic County Board Minutes).

UPPCO has developed a plan and has begun providing training and support to the CCROA in the event this proposal for removal is approved by the Commission. The asset sale agreement will also require that the land transferred as part of the fee-simple transaction remain open for public use in its entirety.

As a condition of the sale, the covenant deed provided to the new owner of the Cisco Dam will include the following current operation requirements:

- Operate the Cisco Dam to maintain Cisco Lake at or above elevation 1683.0 feet MSL, with a target elevation between 1683.4 to 1683.9 feet MSL.
- Adjustments to the Cisco Lake elevation shall be made prior to the formation of ice cover on the lake.
- The new owner will take headwater elevation readings. The data and the time recorded will be entered Monday through Friday except holidays in the daily logbook.
- The new owner will record in the daily logbook, the date of operation, time of adjustment, headwater elevation and number of planks removed or installed.
- Removal or installation of planks will be done at a rate of one plank per ten-minute interval. In the event the pond is rising at a rate greater than 0.1 feet per day from an increased inflow event, the rate shall be one plank per two minute interval.
- Make information recorded in the logbook available to the members of the Bond Falls Implementation Team upon request.

According to Section 3.1.4.3 of the Settlement Agreement: *Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team.* Since the funding of the of the USGS gages is not an action of operating the dam, the new owner shall not be responsible for funding the USGS gages in the headwater or the tailwater nor shall they be responsible for recording discharges.

The covenant deed shall act as the document that sets the lower range of the ordinary high water mark for the Cisco Chain of Lakes at 1683.0. The Michigan Department of Environmental Quality (MDEQ) has authority under state law to take enforcement against the owner of the dam if they lower the water level below the lower range of the ordinary high water mark.

If the proposal is approved by the Commission, the State of Michigan will be notified of the change in regulatory authority. The State of Michigan will also be provided the requirements for water levels. The water level requirements will also be recorded in the deed to the property for the Cisco Dam.

Also according to Section 3.1.4.3 of the Settlement Agreement: *If Cisco Dam is removed from the license and operated by a new owner, UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area*

or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan. In cooperation with Gogebic County, when Gogebic County rebuilt the highway bridge across the dam, UPPCO made several improvements to the dam. The improvements included stabilization of the dam and bridge abutments, refurbishment of the concrete wing walls, and improvements to assist in removal and addition of planks. The total repair cost to UPPCO totaled at least \$70,000 in 2008. A picture of the repaired dam is enclosed in Appendix B. The repairs to the Cisco Dam constitute “another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.”

Construction of the 75-foot long fixed crest spillway in association with the 2008 County Bridge Replacement Project was not feasible because it would have resulted in an unreasonable cost for the County due to at least a 55-foot longer bridge (current width of dam without wing walls is 20 feet).

Placement of a 75-foot long fixed crest spillway structure would require construction of an entirely new dam, which would cost significantly in excess of the \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) provided for in the Settlement Agreement.

The terms of the Settlement Agreement under Section 3.1.4.3 indicate “UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.”

UPPCO will make available up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan for no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project License. Since the project cannot be completed only with the money contribution of UPPCO, the MDNR and the USDA-Forest Service will have to secure the necessary funding for design, permitting and approval of the project in addition to the remaining funds required for construction. Once the funding is secured, the design, permitting and approvals are completed along with the non-UPPCO share of construction, UPPCO will complete its required share of the installation according to Section 3.1.4.3 of the Settlement Agreement. The MDNR and the USDA-Forest Service have no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project to complete their portions of the construction in order for UPPCO to provide its share of the project.

Proposed Project

UPPCO is proposing to remove the Cisco Development from the Bond Falls Hydroelectric Project and to amend all compliance plans to eliminate the requirements pertaining to the Cisco Development.

Cisco Development

The Cisco development, located in the headwaters of the Cisco Branch of the Ontonagon River, includes Cisco Lake, controlled by an 11-foot-high, 21-foot-long dam that is situated between concrete abutments and is controlled manually by placing or removing stoplogs in either of two concrete bays. Cisco Lake is on the downstream end of 15 interconnected lakes (Cisco Chain of Lakes) with a maximum water total surface area of 4,025 acres at a normal maximum surface elevation of 1,683.5 feet msl. UPPCO owns approximately 7.85 acres in the vicinity of the dam. The Exhibit G Drawing depicting the project boundary is enclosed in Appendix C. A map depicting UPPCO's ownership is enclosed in Appendix D.

Project Facilities and Existing Operation

There is no minimum instream flow requirement for the Cisco Dam. The lake is operated to maintain Cisco Lake at or above elevation 1683.0 feet MSL, with a target elevation between 1683.4 to 1683.9 feet MSL.

Affected Environment

Geology and Soils

The Cisco Development is located in the Central Lowland Physiographic Province of the Interior Plains of the United States. It is within the Michigan Basin and borders the granitic highlands of the Canadian Shield. Soils of the Cisco Development are composed primarily of the following complexes: Dawson, Greenwood, and Loxley soils, Gogebic fine sandy loam, Gogebic silt loam, and Karlin-Keweenaw-Sarona. Soil slopes range from 0 percent to 25 percent slopes.

The shorelines of the Cisco Development are lower slopes, dense vegetation and little evidence of severe erosion.

Water Quality and Quantity

The last water quality sampling occurred in 1987. The sampling measured good water quality in the Cisco Chain of Lakes. No vertical stratification was found in the May or August samples, but March dissolved oxygen concentrations exhibited stratification typical for lakes in this region. Dissolved oxygen concentrations in May were 9.0 mg/L and August levels were 7.0 mg/L. These measured levels were well above the minimum dissolved oxygen standard of 5.0 mg/L for the reservoir.

Water quality in the Cisco Branch downstream of the Cisco Dam was measured as good in 1987 with a minimum dissolved oxygen concentration of 7.5 Mg/L in August. The temperature exceeded the coldwater standard of 68°F in August with a maximum reading of 72°F.

The average annual flow at the Cisco Dam is 44 cfs. In 2010, flow releases ranged from a minimum of 0.59 cfs in February to a maximum of 175 cfs in September.

Fisheries and Aquatic Resources

The Cisco Chain of Lakes is composed of 15 lakes in various stages of vegetational succession. The lakes have a low to moderate shoreline gradient with clear water. Vegetation is composed of both emergent and submergent vegetation with a forested shoreline. Substrate is sand and fine gravel in the main lakes with fibrous peat in other areas. Logs and rocks provide adequate sheltering habitat throughout the lakes. Fish surveys have identified walleye, muskie, northern pike, largemouth bass and panfish species such as yellow perch, crappie, bluegill, rock bass, and sunfish.

The Cisco Branch is a low-grade river segment bordered by wetlands and supports mainly warm water to cool water fishes. Typical warm water species include rock bass, bluegill and yellow perch. The lower segment of the river is a steeper grand that can provide brook trout habitat in the spring.

Vegetation

The upland areas around the Cisco Chain of Lakes are developed into residential properties with the remaining open areas forested. Forests are composed of two primary associations: hardwood/fir and pine/spruce. The shallow habitat of the lakes provides extensive areas of emergent, forested, and scrub-shrub wetlands interspersed between open water and upland habitats.

UPPCO has been working with the Cisco Chain Riparian Owners Association to complete surveys for two invasive species (Eurasian water milfoil and purple loosestrife) on the Cisco Development. To date, no purple loosestrife has been identified. Eurasian water milfoil is present in selected areas of the lakes and is currently undergoing treatment by the Cisco Chain Riparian Owners Association.

Downstream of the Cisco Dam, significant wetland areas are present adjacent to the Cisco Branch.

Application for License Amendment – Cisco Development

Wildlife

The wildlife around the Cisco Development is composed of species that utilize hardwood and coniferous forests. There is a diverse community of animals that use the area. These species range from white-tailed deer, black bear, raccoon, red, gray, and fox squirrels to Canada goose, wood duck, black duck and osprey, red-shouldered hawk and osprey. Loon nests have also been known to occur on many of the larger lakes in the Cisco Chain of Lakes.

Threatened and Endangered Resources

The 2002 Environmental Assessment prepared for the licensing of the entire Bond Falls Hydroelectric Project provided a list of reported sightings of state threatened or endangered species in the project area. The list includes the following species:

Gray Wolf	Loggerhead Shrike
Lynx	Osprey
Red-Shouldered Hawk	Common Loon
Trumpeter Swan	Bald Eagle

Recent historical records confirm a past presence of Bald Eagle and Loon nesting within the boundaries of the Cisco Development.

Information from other environmental assessment work that was completed in 2006 indicates the potential presence of two federally protected species in the project area. The Canada Lynx (federally threatened) and the Gray Wolf (federally endangered) are known to be present in the project area potentially including the Cisco Development. The gray wolf was proposed for delisting by the U.S. Fish and Wildlife Service in May of 2011. This action is being supported by both the Michigan Department of Natural Resources and the Wisconsin Department of Natural Resources.

Cultural Resources

Native peoples have been occupying the Upper Peninsula of Michigan and Northern Wisconsin since as early as 9000 B.C. shortly after the retreat of the last glaciers. There is very little information known about the earlier occupations and most sites discovered in the region date from A.D. 500 to 1634. Recorded history of the area began in the period 1615 to 1625 when French explorers, trappers, and missionaries began interacting with the Chippewa or Ojibway people. Settlement of the area continued throughout the region with mining in the 1840's until the 1940's and timber harvesting in the late 1800's. In 1910, the emergence of the railroad facilitated the harvest of the remaining hardwoods and hemlock.

A shoreline survey for potentially eroding sites was completed in 2006 and no eroding sites were found. In 2011, UPPCO completed a shovel test of the approximately 7.85 acres of land it has under ownership near the Cisco Dam. The survey identified several potential archaeological sites.

The Cisco Dam was evaluated for eligibility to the National Register of Historic Places as part of the consultation during the re-licensing effort. The dam was found to not be eligible.

Visual and Aesthetic Resources

The regional area has a high visual interest and diversity. They offer pleasing settings with appealing land and water relationships characteristic of the Western Upper Peninsula of Michigan. The Cisco

Application for License Amendment – Cisco Development

Development offers a wide variety of views including wilderness-like, heavily forested scenes and shorelines dotted with recreation facilities and homes.

Recreational Resources

Local, state, federal, and private facilities provide a diverse array of recreational opportunities in the region. The many outdoor recreational opportunities include, but are not limited to nature viewing, hiking, fishing, camping, swimming, boating, waterskiing, snow skiing and snowmobiling. A large portion (approximately 1,000,000 acres) of the region is encompassed by the Ottawa National Forest. The National Forest operates and maintains over 100 developed recreation sites.

The Cisco Development provides approximately 4,000 acres of surface water supporting a variety of game fish. There are approximately 360 cottages and 9 resorts on the Cisco Chain of Lakes. There are 5 public access sites and 4 boat launches. Two of the boat launches are maintained by the Wisconsin Department of Natural Resources and two are maintained by the Town of Land O' Lakes, WI.

Land Use

The regional area encompassing the Bond Falls Hydroelectric Project has a relatively low population density (less than 20 people per square mile) compared to the rest of the State of Michigan. Forest land (commercial forest, unproductive forest, and productive reserved forest is the largest category of land use in the regional area.

At the Cisco Development, property ownership has a significant influence upon land use because of the prevalent residential and recreational facilities. UPPCO owns less than 10 acres of property (approximately 7.85 acres) at the Cisco Development. The remaining 1,000 or so acres of upland (mostly forested) within the project boundary is owned by others. Approximately 360 single family residences or second homes and 9 resorts are located on the development. Approximately 4,000 acres of the area within the project boundary at the Cisco Development is surface water.

Socioeconomic Resources

The population in the regional area of Michigan has been declining in recent years while the population in Vilas County, Wisconsin has been growing. Services-related industries employ about 34 percent of the work force in Gogebic County and Vilas County.

Dam Safety

The Cisco Development is categorized by the FERC as a low-hazard facility. As a result, FERC Dam Safety strives to complete dam safety inspections at least every other year.

Environmental Consequences

Geology and Soils

Erosion and Sedimentation Control

The proposed project is not expected to yield a significant impact upon the geology and soils of the project because the shorelines of the Cisco Development are lower slopes, dense vegetation and little evidence of severe erosion.

Since UPPCO owns very little acreage associated with the Cisco Dam (approximately 7.85 acres) the proposed project resulting in the elimination requirement to implement best management practices for erosion control during ground-disturbing activities at the Cisco Development would have very little if any negative impact upon the environment.

If the proposal is approved, the Erosion and Sedimentation Control Plan will need to be modified to eliminate all and any references to the Cisco Development. This is not expected to have an adverse impact because there are no specific recommendations for the Cisco Development outlined in the approved plan. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Water Quantity and Quality

The proposed project is not anticipated to significantly impact water quality and quantity.

Cisco Development Reservoir Elevations and Minimum Flows

The Cisco Development currently under project license is operated with no minimum flow release requirements and a relatively narrow fluctuation. Operation is not dictated by, nor does it have a significant effect on power generation at the Victoria Development.

As a condition of the sale, the new owner of the Cisco Dam will be required to make sure it is operated according to the following current operation requirement:

- Operate the Cisco Dam to maintain Cisco Lake at or above elevation 1683.0 feet MSL, with a target elevation between 1683.4 to 1683.9 feet MSL.
- Adjustments to the Cisco Lake elevation shall be made prior to the formation of ice cover on the lake.

The proposed action, if approved, will need to remove the requirements of Article 407 (Cisco Dam Operation Plan), any and all references to the Cisco Development from the requirements of Article 401 (reservoir elevations), Article 404 (operations monitoring plan), Article 406 (reservoir drawdown plan), and Article 408 (water quality monitoring standards). The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Dry-Year Consultation

UPPCO has been in dry year consultation on the Bond Falls Hydroelectric Project every year since the license was issued in 2003. The Cisco Development has not been utilized to provide additional releases to maintain the minimum flows at Victoria through dry-year consultation since dry-year consultation began in 2003.

Although it is possible that the storage of the Cisco Development may in some years provide a benefit during dry-year consultation, this situation would be an extreme anomaly and is not considered normal operation of the hydroelectric Project. Therefore, the benefit of storage from Cisco Dam is not necessary for the normal operation of the facility, nor during the experience UPPCO has had with dry-year consultation.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 403 (dry year consultation process). The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Fisheries and Aquatic Resources

The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Reservoir Elevations

The facility will continue to be operated according to the current reservoir elevation requirements. Therefore, the proposed project will not have any impact upon fisheries or aquatic resources due to reservoir elevation fluctuations. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Minimum Flow Requirements

Under the current license, there is no requirement for minimum flow releases. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Woody Debris Transport and Management

The approved plan states that the Cisco Chain has little or no woody debris. This is consistent with a relatively stable and vegetated shoreline.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 412 (woody debris transport and management) and the approved plan. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Section 18 Fishway Reservation

The Secretary of Interior's authority to require a fishway at the Cisco Development is reserved under Article 418. However, the relicensing analysis did not identify a need for a fishway and UPPCO is not aware of any Secretary of Interior plans to prescribe a fishway at this development. Therefore, the proposed project is not anticipated to have a significantly adverse impact upon fisheries and aquatic resources due to the elimination of the Section 18 Fishway reservation for the Cisco Development.

The Article 418 Fishway Reservation Authority also exists under Article 451 of Michigan Law. If the proposed action is approved, the Cisco Development will be under the authority of Michigan State Law which has an identical provision.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 418 (Section 18 Fishway Reservation). The removal of the Cisco

Application for License Amendment – Cisco Development

Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Vegetation

Buffer Zone Vegetation

The requirements of the approved Buffer Zone Plan (Article 413) apply only to land under the ownership of UPPCO within the project boundary. There are currently approximately 1600 acres of UPPCO owned land that the buffer zone applies to within the entire project boundary.

The removal of the Cisco Development will result in the removal of approximately 7.85 acres or less than 0.5% of the total land within the project boundary that the buffer zone requirements pertain to.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 413 (Buffer Zone) and the approved plan.

Upland Vegetation

Many of the upland areas around the Cisco Development are developed as residential properties, with the remaining areas forested. The extent of upland area controlled and owned by UPPCO according the requirements of the approved Wildlife and Land Management Plan under Article 414 is limited to less than seven acres. The land owned by UPPCO at the Cisco Development is predominantly forested with the exception of open areas for the dam structure itself. There are no specific requirements in the approved Wildlife and Land Management Plan pertaining to the land associated with the Cisco Development.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 414 (Wildlife and Land Management) and the approved plan. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Wetland Vegetation

Wetland communities within this region constitute less than ten percent of the land cover. Small isolated wetlands or lowlands make up the majority of the wetlands. Due to the narrow band of allowable fluctuation, there are also narrow bands of emergent wetland species that exist around the Cisco Development Reservoir. There are no specific wetland requirements in the approved Wildlife and Land Management Plan pertaining wetlands at the Cisco Development. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Invasive Species

The license for the Cisco Dam contains the standard license article contained in all UPPCO licenses regarding invasive species. UPPCO has been working with the Cisco Chain Riparian Owners Association to complete surveys for two invasive species (Eurasian water milfoil and purple loosestrife) on the Cisco Development. To date, no purple loosestrife has been identified. Eurasian water milfoil is present in selected areas of the lakes and is currently undergoing treatment by the Cisco Chain Riparian Owners Association.

Application for License Amendment – Cisco Development

The Cisco Chain Riparian Owners Association has been completing voluntary survey work on the Cisco Development for invasive species prior to the issuance of the license in 2003.

UPPCO has supported survey and treatment efforts on the Cisco Development through Bond Falls Mitigation Enhancement Fund grants.

The Cisco Chain Riparian Owners Association has been completing voluntary survey and control work on their own initiative, and the Bond Falls Mitigation Enhancement Fund grant program only requires proposed grant projects to be within the Ontonagon River Watershed and does not require them to be within the project boundary.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 411 (Nuisance Plant Control) and the approved plan. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Wildlife Management

Many of the upland areas around the Cisco Development are developed as residential properties, with the remaining areas forested. The development limits the amount of sensitive wildlife habitat. Wildlife communities within the Cisco Development are common to the region.

There are no specific wildlife requirements in the approved Wildlife and Land Management Plan pertaining to the Cisco Development

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 414 (Wildlife and Land Management) and the approved plan. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Threatened and Endangered Resources

UPPCO owns and has control of only 7.85 acres associated with the Cisco Dam. Many of the upland areas around the Cisco Development are developed as residential properties, with the remaining areas forested. The development limits the amount of sensitive wildlife habitat that is not influenced heavily by human contact. Other than bald eagle management guidelines that pertain to the 7.85 acres of UPPCO ownership near the Cisco Dam, there are no specific threatened and endangered requirements in the approved Threatened and Endangered Species Protection and Management Plan pertaining to the Cisco Development. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 415 (Threatened and Endangered Species Protection and Management) and the approved plan.

Cultural Resources

Cisco Dam

The Cisco Dam is not eligible for the National Register of Historic Places. Therefore, the proposed project is not expected to adversely impact the requirements of the Article 419 approved Historic Resource Management Plan.

Protection of Known Sites and Ground-disturbing Activity

The 2011 shovel survey completed by UPPCO on the approximately 7.85 acres, identified the potential presence of archaeological sites on the property. Through the Asset Sale Agreement, UPPCO will place a deed restriction on the use of the 7.85 acres such that any future ground disturbance activity can be completed only after consultation with the appropriate Michigan authority on compliance with the requirements of Section 106 of the Historic Preservation Act as applicable.

Since the above restriction will be placed on the deed to the property, the removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 419 (Historic Resource Management) and the approved plan.

Recreational Resources

FERC-licensed Recreation Facilities

There are no FERC-licensed recreation facilities within the Cisco Development. As a result, the existing recreational uses will remain the same as they currently are independent of the regulatory authority for the Cisco Development. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

The proposed action, if approved, will need to remove any and all references to the Cisco Development from the requirements of Article 416 (Recreation Plan) and the approved plan. It will also require the modification of Exhibit R-1 to eliminate the reference to the Cisco Development.

General Open Space Recreation

Through the Asset Sale Agreement, UPPCO will place a deed restriction on the use of the 7.85 acres such that the property remains in the public use. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Socioeconomic Resources

Due to the large amount of residential development associated with the Cisco Development, the removal of the Cisco Development from the Bond Falls Hydroelectric Project will allow for the continued positive economic impact upon the region because the use of the shoreline property will remain the same. The removal of the Cisco Development from the Project License will not result in any significant changes to the hydroelectric project in this discipline.

Exhibits A, F, and G

The proposed action, if approved will require the modification of the Exhibit A to eliminate all references to the Cisco Development. Exhibit F, Sheet 5 will also need to be removed from the license along with Exhibit G-6. Exhibit G-1 will need to be modified to remove the reference to the Cisco Development.

Dam Safety Inspections

The proposed action, if approved will transfer the responsibility for dam safety inspections from the FERC to the State of Michigan under Section 324.31506 of the Natural Resources Environmental Protection Act (Act 451) of 1994.

Cumulative Effects/Conclusion

Due to the limited Cisco Development-specific requirements included in the requirements of the license and the approved compliance plans, and the requirements that will be placed upon the property deed through the asset sale agreement (which is subject to FERC approval of this proposal), the proposed project of removing the Cisco Development from the Bond Falls Hydroelectric Project (FERC Project No. 1864) will not result in any significant changes to the hydroelectric project.

Comments on Application

The proposed application was provided for consultation to the members of the Bond Falls Implementation Team and the Cisco Chain Riparian Owners Association. Documentation of Consultation is included in Appendix E.

Appendix A

Gogebic County Board Minutes

Application for License Amendment – Cisco Development

GOGEBIC COUNTY BOARD OF COMMISSIONERS

**Regular Meeting
September 28, 2011
County Courthouse
Bessemer, MI 49911
5:00 P.M.**

CALL TO ORDER

The meeting was called to order at 5:02 p.m. by Chairman Siirila.

ROLL CALL:

**Present: (9) Bonovetz, Gerovac, Jacobson, Kangas,
Morin, Oliver, Peterson, Pezzetti, Siirila**

Absent: (0) None

APPROVAL OF THE MINUTES(September 14, 2011 regular meeting minutes.)

A motion was made by Kangas, supported by Morin and carried by unanimous voice vote to approve the minutes as presented.

APPROVAL OF AGENDA

A motion was made by Pezzetti, supported by Gerovac and carried by unanimous voice vote to approve the agenda as presented along with one addition to Other Matters: a budget amendment for the sheriff department.

CITIZENS WISHING TO ADDRESS THE COUNTY BOARD ON AGENDA ITEMS

(5 minute limit)

There was none.

Committee Meetings - Summary Reports:

1. Finance, Budgeting & Auditing Committee-----08/24/2011
A motion was made by Gerovac, supported by Kangas to receive the report and place it on file.

2. Personnel & Negotiations/Committee of the Whole--08/26/2011
A motion was made by Pezzetti, supported by Kangas to fund the purchase of the new County phone system through the Delinquent Tax Revolving Loan Fund at 2% over a five year period.

Roll Call:

**YES: (9) Bonovetz, Gerovac, Jacobson, Kangas,
Morin, Oliver, Peterson, Pezzetti, Siirila**

NO: (0) None

Motion carried.

APPEARANCES:

1. Cisco Chain of Lakes Representatives
Dave McDonald Jr. appeared before the Board to represent the Cisco Chain Riparian Owners Association (CCROA) and gave background information on the organization's almost 50 year history. Once again he requested the Board to partner with CCROA and work together to formulate an agreement to purchase the Cisco Chain of Lakes Dam located in Watersmeet Township. McDonald asked the Board to consider the lease option with CCROA, if the Federal Energy Regulatory Commission approves the transfer title of the Dam from UPPCO to the County or CCROA.

Application for License Amendment – Cisco Development

GOGEBIC COUNTY BOARD OF COMMISSIONERS**Regular Meeting****September 28, 2011****Page Two**

Corporate Counsel Richard Adams submitted options to the Board. One would be to stay out it for the time being and see if CCROA is able to obtain approval from FERC for the transfer of the ownership of the Dam to CCROA. The second option is to get involved and pursue the lease agreement and ownership of the Dam.

Lengthy discussion followed the presentation of McDonald, Adams and Wes Kiley of CCROA.

A motion was made by Peterson, supported by Pezzetti, to allow Mr. Adams and Mr. McDonald to work together on a contract that would be acceptable to County Board and CCROA on the transfer of ownership of Cisco Chain of Lakes Dam from UPPCO.

Roll Call:

**YES: (8) Gerovac, Jacobson, Kangas,
Morin, Oliver, Peterson, Pezzetti, Siirila**

NO: (1) Bonovetz

Motion carried.

COMMUNICATIONS:

1. Kim J. Stoker, Executive Director, WUPPDR
(RE: Notice of Intent; Michigan Works! Job Force Board)

A motion was made by Pezzetti, supported by Kangas and carried by unanimous voice vote to send a letter of support for the project.

2. Duane DuRay, Airport Manager
(RE: 4th Quarter Appropriation release)

A motion was made by Gerovac, supported by Jacobson, to release the 4th Quarter appropriation to the Airport.

Roll Call:

**YES: (9) Bonovetz, Gerovac, Jacobson, Kangas,
Morin, Oliver, Peterson, Pezzetti, Siirila**

NO: (0) None

Motion carried.

RESOLUTIONS:

1. Kim J. Stoker, Executive Director, WUPPDR
(RE: Resolutions for Consideration)

A motion was made by Oliver, supported by Morin to adopt the resolutions, discussion followed and Oliver rescinded his motion and Morin rescinded his support, then **a motion** was made by Gerovac, supported by Oliver and carried by unanimous voice vote to receive the communication and place it on file.

2. Michigan Association of Counties
(RE: opposition to repeal of personal property tax)

A motion was made by Kangas, supported by Gerovac and carried by unanimous voice vote to adopt a similar resolution.

Application for License Amendment – Cisco Development

GOGEBIC COUNTY BOARD OF COMMISSIONERS

Regular Meeting

September 28, 2011

Page Three

INCREMENTS/LONGEVITY:

1. Holly Johnson, 6 month increment Prosecutor's office
A motion was made by Oliver, supported by Jacobson and carried by unanimous voice vote to approve of the six month increment.

ADOPTION OF 2011 TAX RATE FOR COUNTYWIDE MILLAGES

A motion was made by Pezzetti, supported by Peterson to adopt the 2011 County millage as presented. County allocated at 6.6679, Medical Care Facility M.O.E. at .6000, Medical Care Facility Building and Site at .4000, Animal Control at .2000 and Senior Programs at .5989 and the County Transit at .3226.

Roll Call:

**YES: (9) Bonovetz, Gerovac, Jacobson, Kangas,
Morin, Oliver, Peterson, Pezzetti, Siirila**

NO: (0) None

Motion carried.

TRIAL BALANCE/CASH BALANCE

A motion was made by Kangas, supported by Oliver and carried by unanimous voice vote to approve the reports as presented.

GENERAL FUND REVENUE AND EXPENDITURE CONTROL

A motion was made by Gerovac, supported by Pezzetti and carried by unanimous voice vote to approve the reports as presented.

CLAIMS AND ACCOUNTS

A motion was made by Pezzetti, supported by Morin to pay the claims as presented along with the pre-paids and approve of four additions: A bill for repairs to the County van from Ricks Muffler in the amount of \$132.00; to approve of three payroll related bills from District Court for transcripts for Julie Osterman for \$42.30 and on call hours for Osterman (\$210.00) and Brenda Aili-Angus (\$215.00).

Roll Call:

**YES: (9) Bonovetz, Gerovac, Jacobson, Kangas,
Morin, Oliver, Peterson, Pezzetti, Siirila**

NO: (0) None

Motion carried.

Application for License Amendment – Cisco Development

GOGEBIC COUNTY BOARD OF COMMISSIONERS

Regular Meeting

September 28, 2011

Page Four

OTHER MATTERS

A motion was made by Oliver, supported by Gerovac, to amend the Sheriff budget to reflex an increase of \$9,000.00 from the USDA grant for a vehicle purchase.

Roll Call:

**YES: (9) Bonovetz, Gerovac, Jacobson, Kangas,
Morin, Oliver, Peterson, Pezzetti, Siirila**

NO: (0) None

Motion carried.

PUBLIC COMMENT (5 minute limit)

There was none.

ADJOURNMENT

A motion was made by Gerovac, supported by Bonovetz and carried by unanimous voice vote to adjourn to the Call of the Chair. The meeting adjourned at 5:55 p.m.

Dan Siirila, Chairman

Gerry R. Pelissero, Clerk

Appendix B

Pictures of Repaired Dam

Application for License Amendment – Cisco Development



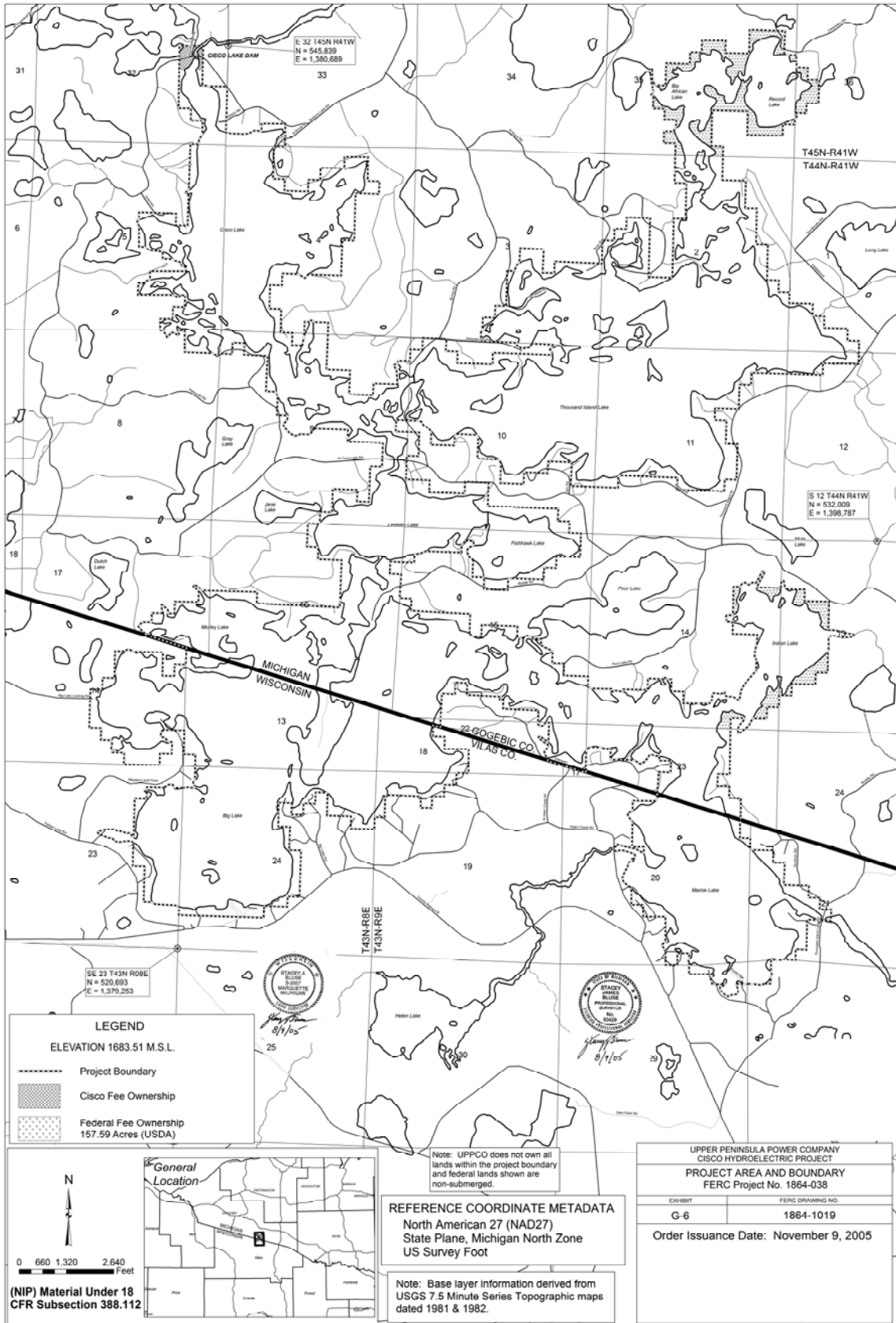
Application for License Amendment – Cisco Development



Appendix C

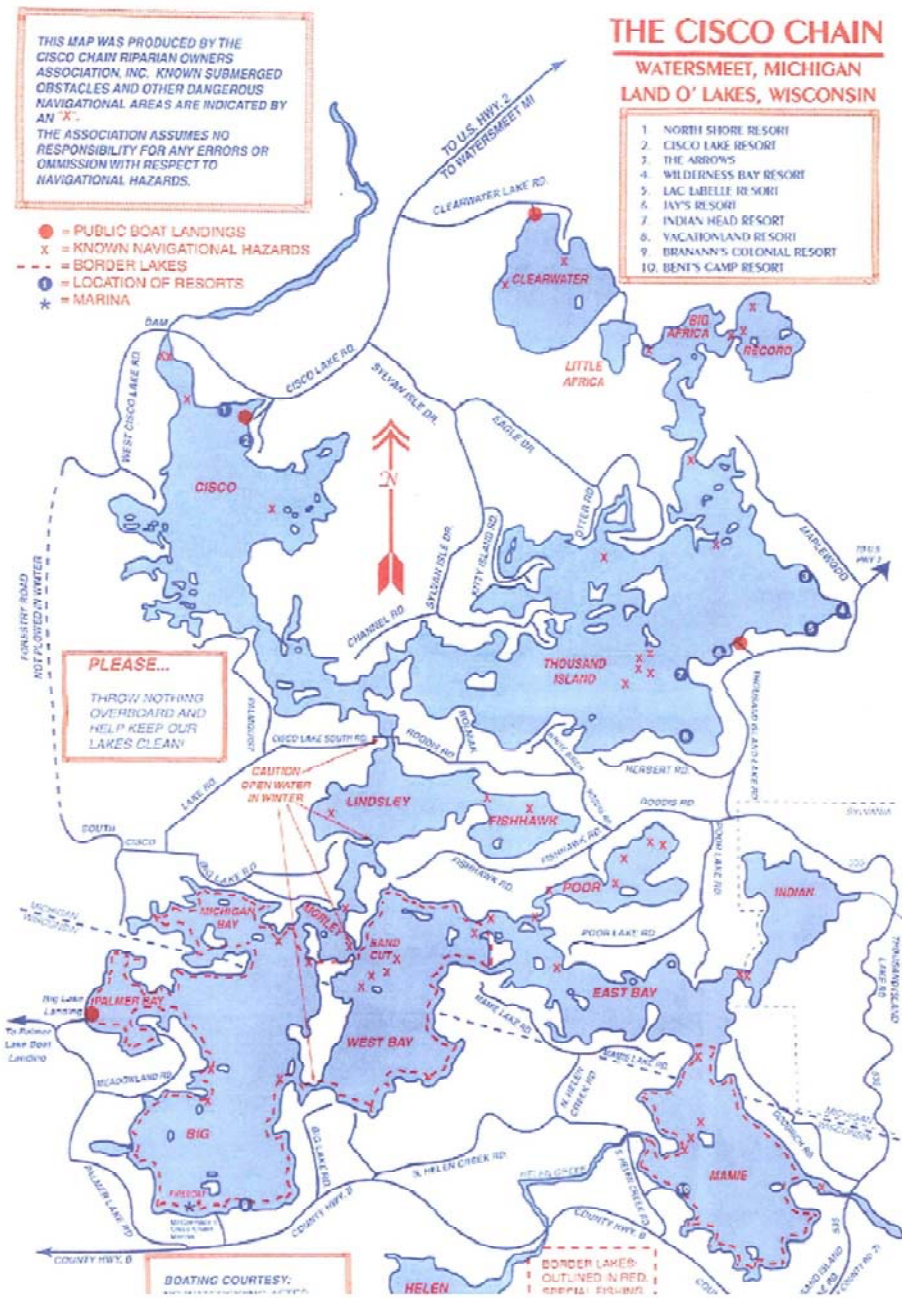
Approved Exhibit G Drawing and Lake Map

Application for License Amendment – Cisco Development



Map

Page 1 of 1



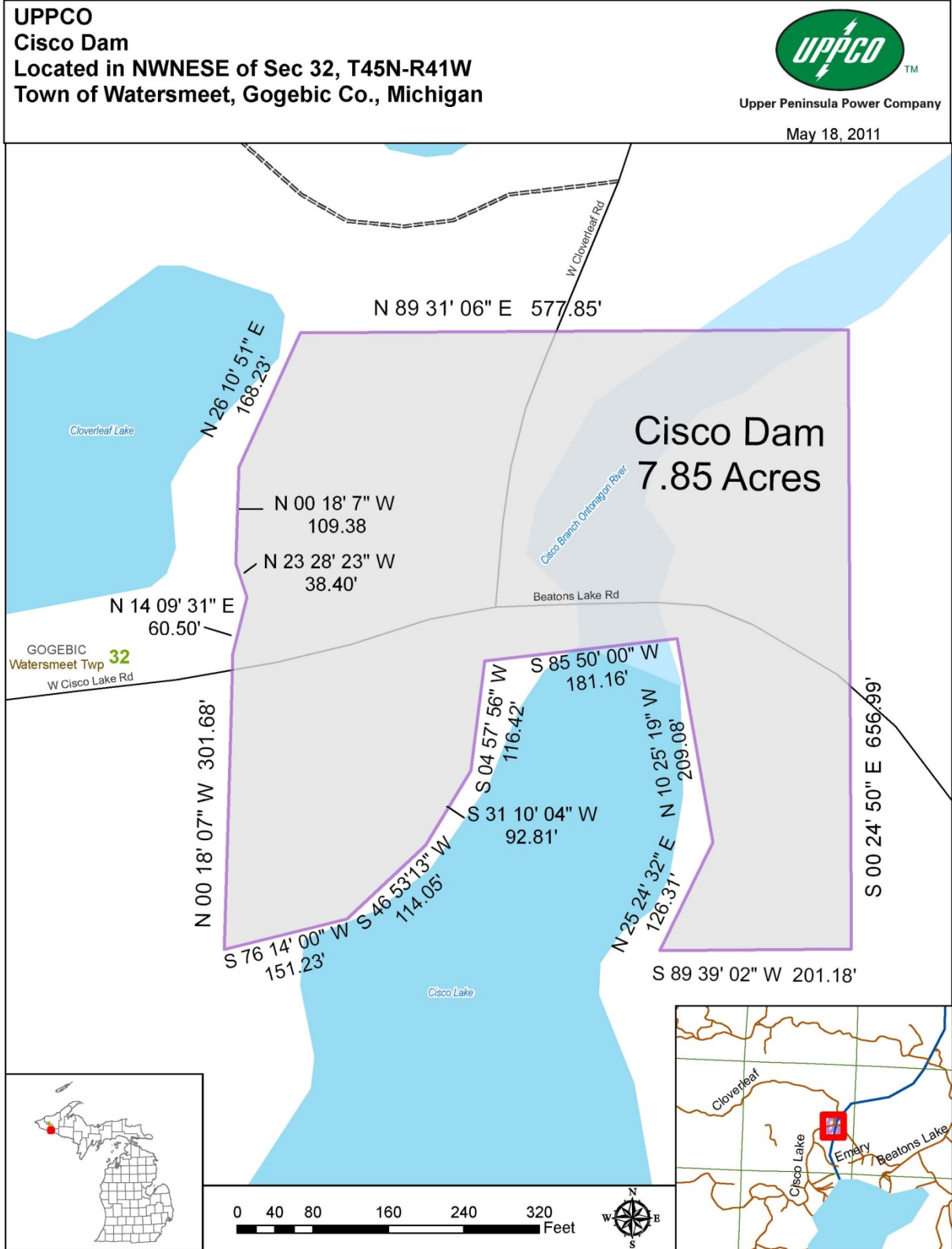
<http://www.north-shore-resort.com/map.htm>

1/18/2011

Appendix D

Map Depicting UPPCO Ownership at the Cisco Development

Application for License Amendment – Cisco Development



Appendix E

Documentation of Consultation

Application for License Amendment – Cisco Development

Puzen, Shawn C

From: Puzen, Shawn C
Sent: Wednesday, February 15, 2012 9:13 AM
To: 'Gilbert, Stephen J - DNR'; 'Laatsch, Cheryl - DNR'; 'jdschramm@oceana.net'; 'troutkpr@up.net'; 'Nass, Norman -FS'; 'Fedora, Mark -FS'; 'Piszczek, Paul (DNR)'; 'vincent_cavalieri@fws.gov'; 'gmensch@kbic-nsn.gov'
Cc: Melchiori, James R; Egtvedt, Gregory W; Puzen, Shawn C
Subject: Cisco Application-30 day request for comments
Attachments: 20120214 Cisco Application.pdf

Dear BFIT Members:

Please provide your comments on the attached application to remove the Cisco Development from the Bond Falls Hydroelectric Project. We have revised the application based upon the five items discussed in our meeting yesterday.

Please provide your comments by no later than March 17, 2012. If you do not respond with comments by that date, UPPCO will assume you do not have any comments.

Thanks,

Shawn C. Puzen

Environmental Consultant | Environmental Services | Integrys Business Support, LLC

920-433-1094

920-639-2480 *cell*

920-433-1176 *fax*

SCPuzen@integrysgroup.com

www.integrysgroup.com

Providing support for Integrys Energy Group, Integrys Energy Services, Integrys Transportation Fuels, Michigan Gas Utilities, Minnesota Energy Resources, North Shore Gas, Peoples Gas, Upper Peninsula Power Company, Wisconsin Public Service, and Wisconsin River Power.

This email and any of its attachments may contain proprietary information, which is privileged, confidential, or subject to copyright belonging to Integrys Energy Group, Inc. This e-mail is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution, copying, or action taken in relation to the contents of and attachments to this e-mail is strictly prohibited and may be unlawful. If you have received this e-mail in error, please notify the sender immediately and permanently delete the original and any copy of this e-mail and any attachment. Thank You.

Application for License Amendment – Cisco Development

Puzen, Shawn C

From: Puzen, Shawn C
Sent: Wednesday, December 14, 2011 10:10 AM
To: 'biglaker@hughes.net'
Cc: Egtvedt, Gregory W; Puzen, Shawn C; Melchiori, James R
Subject: Request for Comments-License Amendment to Remove Cisco Development from the Bond Falls Hydroelectric Project
Attachments: 20111202 Cisco Application.pdf

Wes-

Attached is a Draft Application for License Amendment. IT has been sent to the Bond Falls Implementation Team for Comment. Please feel free to provide comments within 30 days.

Since I will be out of the office for medical reasons until end of January 2012, please provide your comments directly to Greg Egtvedt. If you have any additional questions when I am out, please do not hesitate to contact Greg at 920-433-5713.

Thanks,

Shawn C. Puzen

Environmental Consultant | Environmental Services | Integrys Business Support, LLC

920-433-1094

920-639-2480 *cell*

920-433-1176 *fax*

SCPuzen@integrysgroup.com

www.integrysgroup.com

Providing support for Integrys Energy Group, Integrys Energy Services, Michigan Gas Utilities, Minnesota Energy Resources, North Shore Gas, Peoples Gas, Upper Peninsula Power Company, Wisconsin Public Service, and Wisconsin River Power.

This email and any of its attachments may contain proprietary information, which is privileged, confidential, or subject to copyright belonging to Integrys Energy Group, Inc. This e-mail is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution, copying, or action taken in relation to the contents of and attachments to this e-mail is strictly prohibited and may be unlawful. If you have received this e-mail in error, please notify the sender immediately and permanently delete the original and any copy of this e-mail and any attachment. Thank You.

Application for License Amendment – Cisco Development



Upper Peninsula Power Company
700 North Adams Street
P.O. Box 19001
Green Bay, WI 54307-9001

January 13, 2012

Mr. Brian Conway
State Historic Preservation Office
Michigan Historical Center
702 West Kalamazoo Street
Lansing, MI 48909-8240

Dear Mr. Conway:

Cisco Dam Proposed Removal from the Hydroelectric Project

Upper Peninsula Power Company (UPPCO) has developed a Draft Application for License Amendment to propose to remove the Cisco Development from the Bond Falls Hydroelectric Project (FERC Project No. 1864). A map indicating the location of the Cisco Dam is included in Appendix 1.

The project property proposed for removal from the project boundary has been shovel surveyed. The 2011 shovel survey report is included in Appendix 2

The Draft Application (Appendix 3) includes proposed measures to eliminate the potential of adversely affecting historic properties.

Please review the enclosed information and provide your comments on this project within 30 days. UPPCO would appreciate input from the SHPO on which portions of the project the SHPO may or may not agree with UPPCO's conclusions. Should you have any questions or need additional information, please contact me at SCPuzen@integrysgroup.com or at (920) 433-1094.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn C. Puzen", is written over a light blue horizontal line.

Shawn C. Puzen
Environmental Consultant

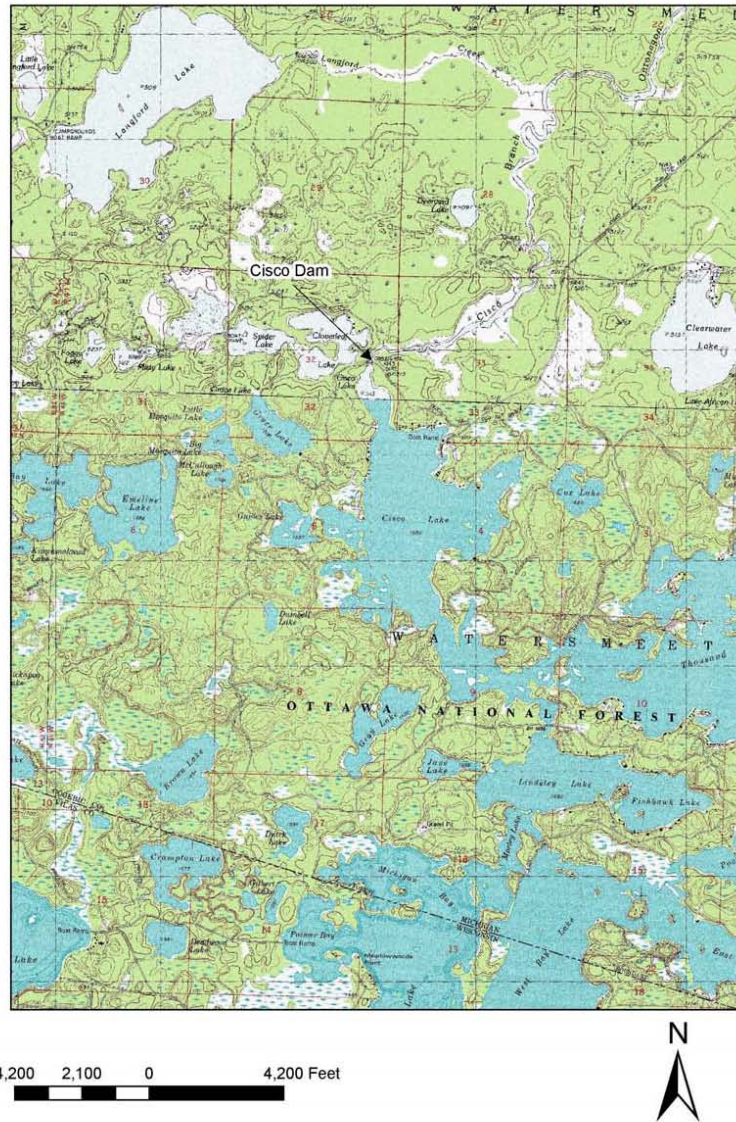
Enc.

Appendix 1

**Location of
Project**

Application for License Amendment – Cisco Development

Location of Cisco Dam



Application for License Amendment – Cisco Development

**STATE HISTORIC PRESERVATION OFFICE
Application for Section 106 Review**

SHPO Use Only				
<input type="checkbox"/> IN	Received Date	___ / ___ / ___	Log In Date	___ / ___ / ___
<input type="checkbox"/> OUT	Response Date	___ / ___ / ___	Log Out Date	___ / ___ / ___
	Sent Date	___ / ___ / ___		

Submit one copy for each project for which review is requested. This application is required. Please type. Applications must be complete for review to begin. Incomplete applications will be sent back to the applicant without comment. Send only the information and attachments requested on this application. Materials submitted for review cannot be returned. Due to limited resources we are unable to accept this application electronically.

I. GENERAL INFORMATION

THIS IS A NEW SUBMITTAL THIS IS MORE INFORMATION RELATING TO ER#

- a. Project Name: Cisco Dam
- b. Project Address (if available):
- c. Municipal Unit: County: Ontonagon
- d. Federal Agency, Contact Name and Mailing Address (If you do not know the federal agency involved in your project please contact the party requiring you to apply for Section 106 review, not the SHPO, for this information.): FERC-Henry Ecton
- e. State Agency (if applicable), Contact Name and Mailing Address:
- f. Consultant or Applicant Contact Information (if applicable) including mailing address: UPPCO-See Cover letter

II. GROUND DISTURBING ACTIVITY (INCLUDING EXCAVATION, GRADING, TREE REMOVALS, UTILITY INSTALLATION, ETC.)

DOES THIS PROJECT INVOLVE GROUND-DISTURBING ACTIVITY? YES NO (If no, proceed to section III.)

Exact project location must be submitted on a USGS Quad map (portions, photocopies of portions, and electronic USGS maps are acceptable as long as the location is clearly marked).

- a. USGS Quad Map Name: Thousand Island Lake
- b. Township: 45N Range: 41W Section: 32
- c. Description of width, length and depth of proposed ground disturbing activity: See attached
- d. Previous land use and disturbances: Dam Construction
- e. Current land use and conditions: Dam
- f. Does the landowner know of any archaeological resources found on the property? YES NO
Please describe: unevaluated sites found during shovel survey.

III. PROJECT WORK DESCRIPTION AND AREA OF POTENTIAL EFFECTS (APE)

Note: Every project has an APE.

- a. Provide a detailed written description of the project (plans, specifications, Environmental Impact Statements (EIS), Environmental Assessments (EA), etc. **cannot** be substituted for the written description); See Attached
- b. Provide a localized map indicating the location of the project; road names must be included and legible.
- c. On the above-mentioned map, identify the APE.
- d. Provide a written description of the APE (physical, visual, auditory, and sociocultural), the steps taken to identify the APE, and the justification for the boundaries chosen. See Attached

Application for License Amendment – Cisco Development

IV. IDENTIFICATION OF HISTORIC PROPERTIES

- a. List and date **all** properties 50 years of age or older located in the APE. If the property is located within a National Register eligible, listed or local district it is only necessary to identify the district: Cisco Dam is > 50 yrs old
- b. Describe the steps taken to identify whether or not any **historic** properties exist in the APE and include the level of effort made to carry out such steps: Dam is not eligible for NRHP based upon relicensing review.
- c. Based on the information contained in "b", please choose one:
- Historic Properties Present in the APE
- No Historic Properties Present in the APE
- d. Describe the condition, previous disturbance to, and history of any historic properties located in the APE:

V. PHOTOGRAPHS

Note: All photographs must be keyed to a localized map.

- a. Provide photographs of the site itself.
- b. Provide photographs of all properties 50 years of age or older located in the APE (faxed or photocopied photographs are not acceptable).

VI. DETERMINATION OF EFFECT

- No historic properties affected based on [36 CFR § 800.4(d)(1)], please provide the basis for this determination.
- No Adverse Effect [36 CFR § 800.5(b)] on historic properties, explain why the criteria of adverse effect, 36 CFR Part 800.5(a)(1), were found not applicable.
- Adverse Effect [36 CFR § 800.5(d)(2)] on historic properties, explain why the criteria of adverse effect, [36 CFR Part 800.5(a)(1)], were found applicable.

Please print and mail completed form and required information to:
 State Historic Preservation Office, Environmental Review Office, Michigan Historical Center, 702
 W. Kalamazoo Street, P.O. Box 30740, Lansing, MI 48909-8240

Appendix 2
2011 Shovel Survey Report

Application for License Amendment – Cisco Development



Archaeological Services, Inc.

January 11, 2012

Shawn Puzen
Wisconsin Public Service Corporation.
700 Adams Street
P.O. Box 19002
Green Bay, WI 54307-9002

Re: *Phase I Archaeological Survey of proposed Cisco Lake Dam Reconstruction on the Bond Falls Hydroelectric Project in Watersmeet Township, Gogebic County, Michigan.*

Dear Mr. Puzen:

On September 15-16, 2011, we conducted the above-referenced Phase I Archaeological Survey at the Cisco Lake Dam, part of the Bond Falls Hydroelectric Project. The techniques, results, and recommendations of that survey constitute the remainder of this letter.

BACKGROUND

The Upper Peninsula Power Company (UPPCO) intends to reconstruct the Cisco Lake Dam in section 32 of T45N, R41W, Gogebic County, Michigan. The Federal Energy Regulatory Commission (FERC) guidelines regulate this project, and because this reconstruction constitutes an undertaking under Section 106 of the National Historical Preservation Act 1966 (as amended), to comply with that act and the Procedures for the Protection of Historic and Cultural Properties under (36CFR800), a Phase I Archaeological Survey is needed to determine if any historic properties may be present and affected by the project.

LITERATURE ARCHIVES RESEARCH

Background research for the Cisco Lake area was conducted in 2006 (Van Dyke 2006) and is still current since no other archaeological work has taken place on the property since that time. Because there has been little archaeological investigation in the area, little is known about the local archaeology. The nearest area for which a summary of archaeology has been written is in northern Wisconsin (Salzer 1969). The summary of his work in parts of Vilas, Oneida, Forest, Price, and Iron Counties, Wisconsin is still relevant but it includes the Cisco Lake chain only by extrapolation. Halsey's (1999) summary of Michigan archaeology does not note any archaeological sites in that portion of Gogebic County from which there is excavation

305 South Britton Road • Union Grove, WI 53182 • Ph: 262-878-0510 • Fax: 262-878-5763

Shawn Puzen
January 11, 2012
Page 2

information, and the Wisconsin Archeologist 1997 summary of Wisconsin archaeology does not single out any locations in nearby Vilas County (Birmingham et al. 1997). Historical chronicles that cover northern Wisconsin and parts of the Upper Peninsula (e.g. Warren 1984, Kinietz 1989) are usually not specific in the location of the many events they record, but there may be many undiscovered pre-contact Native American villages around the northern lakes.

The Wisconsin Historic Preservation Database (WHPD), storehouse of archaeological site information for Wisconsin, shows no archaeological sites near the Cisco Lake chain in Wisconsin. Records of the Office of the State Archaeologist (OSA) in Lansing Michigan indicate that only four archaeological sites are known in the vicinity of the Cisco chain of lakes in Michigan. One is a dugout canoe, two are Native American camps, and one is a Native American cemetery. On the Michigan side, a considerable amount of acreage has been covered by compliance surveys including areas near Cisco Lake, Lindsley Lake, Michigan Bay Lake, and Morley Lake, in the Ottawa National Forest. As a result of these surveys, a few logging era and late nineteenth-early twentieth century sites and fewer prehistoric sites have been discovered. Archaeological survey is far from complete in these areas, and the prehistory is not well known at this point.

The dam at Cisco Lake Dam was built in 1931 by the Copper District Power Company. It was used to provide water for the hydroelectric facility at Victoria Dam. In 1948, UPPCO purchased the dam. The dam consists of a concrete structure 21' long and 5' high and has two 6' 8" wide concrete bays (Hanchin et al 2008).

PHYSICAL SETTING

The project area is in the Winegar Moraine zone (sub-subsection IX.3.2.) of the Regional Landscape Ecosystem of Wisconsin and Michigan's Upper Peninsula (Albert 1995). Much of this sub-subsection is characterized by irregular ice-disintegration topography including coarse-textured ice-stagnation moraines with numerous kettle lakes, steep and sandy ridges, and northern hardwood forest and bog wetlands. The sub-subsection is underlain by Archean-age metamorphic and igneous rocks including granite, metavolcanics (wacke, conglomerate, and iron formation) and metamorphosed mafic-intermediate volcanic rock (greenstone, gneiss, and amphibolite) (Albert 1995). Glacial drift, often 200-300 feet thick over the Precambrian bedrock, is acidic, rocky, red sandy loam or loamy sand, derived from the iron-rich, local Precambrian bedrock. Soils in the project area are of the entire sub-subsection are podzolized sandy loams and loamy sands.

Pre-settlement vegetation included northern hardwood forests, hemlock and white pine, black spruce, and tamarack swamps and bogs. Northern hardwood forests (sugar maple, hemlock, yellow birch, red maple, and basswood) dominated the uplands. The forests of hemlock and white pine occupied the more fire-prone lake margins on steep south and west aspect slopes. Black spruce and tamarack swamps and bogs are common wetland types in the kettles (Albert 1995).

FIELDWORK TECHNIQUES AND RESULTS

Fieldwork techniques used to survey the approximate six acre project area consisted of shovel testing at 15 meter intervals within and between transects. For purposes of description, the area

Application for License Amendment – Cisco Development

Shawn Puzen
January 11, 2012
Page 3

is divided into four parts, divided east-west by the West Branch of the Ontonagon River and north-south by the W. Cisco Lake Road.

The Northeast Part

This is a small area of upland and steep slope down toward the river. The area shows signs of disturbance. Three shovel test transects were dug in this section of the project area. Shovel test profiles showed mixed soils with a heavy percentage of intrusive gravel. The soil profiles in the southeastern part of this location were almost completely gravel suggesting the presence of a gravel parking lot or trail head. No artifacts were found in this area.

The Southeast Part

This is a small area of upland and gentle slope down toward the lake. Three shovel test transects were dug in this section of the project area. Soil profiles showed a 30 cm thick dark brown, silt loam A-horizon over a yellowish sandy silt B-horizon. Artifacts, consisting of three quartz flakes, were recovered from along the lake edge and approximately 20 meters south of W. Cisco Road (Map2). Upon finding these artifacts the shovel test interval was reduced to five meters and additional shovel tests were dug in cardinal and inter-cardinal directions to determine the extent of the site. The attached sketch map shows the relationship of the finds to the landscape. This site has been assigned the number 20GB453 by the Office of the State Archaeologist (OSA).

The Southwest Part

This is a small area of upland and gentle slope down toward the lake. Six transects were dug in this section of the project area. Soil profiles showed a 30 cm thick dark brown, silt loam A-horizon, over a yellowish sandy silt B-horizon. Artifacts were recovered (Table 1) within the northeastern portion of this part beginning at the W. Cisco Road to 25 meters south of the road (Map2). Upon finding these artifacts the shovel test interval was reduced to five meters (as above) in order to determine the extent of the site. The attached sketch map shows the relationship of the finds to the landscape. This site has been assigned the number 20GB452 by the Office of the State Archaeologist (OSA).

Table 1. Artifacts from the Southwest Site.

<i>Shovel Test</i>	<i>Count</i>	<i>Material</i>	<i>Type</i>
1	2	Quartz	flake
2	1	Quartz	flake
A	2	Quartz	flake
B	2	Quartz	flake
C	1	Quartz	flake
D	2	Quartz	flake
E	3	Quartz	flake
	4	Quartz	shatter
F	1	Quartz	flake
G	1	Quartz	flake
Total	19		

Application for License Amendment – Cisco Development

Shawn Puzen
January 11, 2012
Page 4

The Northwest Part

This is generally flat upland with a channelized drainage ditch running along the southern boundary. Six transects were dug in this section of the project area. Soil profiles showed a 30 cm thick dark brown, silt loam A-horizon, over a yellowish sandy silt B-horizon. Artifacts were recovered (Table 2) throughout this area (Map2). Upon finding these artifacts the shovel test interval was reduced to five meters in order to determine the extent of the site. The attached sketch map shows the relationship of the finds to the landscape. This site has been assigned the number 20GB451 by the Office of the State Archaeologist (OSA).

Table 2. Artifact from the Northwest Site.

<u>Shovel Test</u>	<u>Count</u>	<u>Material</u>	<u>Flake Type</u>
2	3	Quartz	flake
3	1	Chert	flake
	1	Quartz	flake
	1	Quartz	shatter
4	1	Quartz	uniface
	1	Quartz	flake
6	2	Chert	flake
	1	Quartz	flake
A	4	Quartz	flake
B	2	Quartz	flake
C	4	Quartz	flake
D	2	Quartz	flake
	2	Quartz	shatter
E	2	Quartz	flake
F	1	Quartz	flake
G	1	Quartz	flake
Total	29		

CONCLUSION

During the survey, three new sites were discovered. The southeast subarea included an isolated find of three quartz flakes. This site is not considered significant due to the small number of artifacts and the site type, and no additional investigation is recommended. The southwest subarea yielded 19 artifacts from 9 shovel tests, while the site in the northwest subarea yielded 29 artifacts from 11 shovel tests. The latter two subareas are probably the same site but were divided by the construction of W. Cisco Road. Because a large number of artifacts were recovered from these two locations, they should be avoided by construction. In the event that it is not possible to avoid them, National Register of Historic Places evaluation may be necessary.

If you have any questions about this survey, please do not hesitate to contact me.

Sincerely,


Allen P. Van Dyke

Application for License Amendment – Cisco Development

Shawn Puzen
January 11, 2012
Page 5

AVD/rk

>>>>>>> <<<<<<<<

This research was done in accordance with accepted professional standard procedures and care. The results of this study are based upon professional interpretation of the information available. AVD Archaeological Services, Inc., has assumed that the information provided is complete and correct. The techniques used in this survey are only appropriate for locating archaeological sites that are on or near the surface. It is possible that deeply buried sites or unmarked graves might exist. If archaeological material is discovered during ground disturbing activities, immediate consultation can be obtained by contacting the Michigan Office of the State Archaeologist at (517-373-0510). Ground disturbing activity in the area of the discovery should be stopped until the appropriate office has been contacted.

Shawn Puzen
January 11, 2012
Page 6

REFERENCES CITED

- Albert, D.A.
1995 *Regional Landscape Ecosystems of Michigan, Minnesota, and Wisconsin: a working map and classification*. Gen. Tech. Rep. NC-178. St. Paul, MN: U.S. Department of Agriculture, Forest Service, North Central Forest Experiment Station. Jamestown, ND: Northern Prairie Wildlife Research Center Online.
<http://www.npwtc.usgs.gov/resource/habitat/rlandscp/rlandscp.htm>Version (03JUN1998)
- Birmingham, R.A., C.I. Mason, and J.B. Stoltman
1997 *Wisconsin Archaeology*. The Wisconsin Archeologist Vol. 78(1-2).
- Halsey, J.R.
1999 *Retrieving Michigan's Buried Past: The Archaeology of the Great Lakes State*. Cranbrook Institute of Science Bulletin 64.
- Hanchihn, Patrick A., Brian J. Gunderman, and Richard D. Clark, Jr.
2008 *The fish Community and Fishery of the Cisco Lake Chain, Gogebic County, Michigan and Vilas County, Wisconsin with Emphasis on Walleyes, Northern Pike, and Mussels*. Michigan Department of Natural Resources, Fisheries Special Report 47, Ann Arbor, Michigan.
- Kinietz, W.V.
1989 *The Indians of the Western Great Lakes*. University of Michigan Press.
- Salzer, R.J.
1969 *An Introduction to the Archaeology of Northern Wisconsin*. PhD. dissertation Southern Illinois University, Carbondale, Illinois.
- Warren, W.W.
1984 *History of the Ojibway People*. Minnesota Historical Society Press .

MAPS

- 1900 Atlas of Delta County, Michigan. W. W. Hixson & Co., Rockford, Illinois.
- 1913 Standard Atlas of Delta County, Michigan. Geo. A. Ogle & Co., Chicago, Illinois.

Site Location Information has been intentionally omitted from this report.

Appendix 3

Draft Application

Application for License Amendment – Cisco Development



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY
STATE HISTORIC PRESERVATION OFFICE

GARY HEIDEL
EXECUTIVE DIRECTOR

June 5, 2012

HENRY ECTON
FEDERAL ENERGY REGULATORY COMMISSION
888 FIRST STREET NE
WASHINGTON DC 20426

RE: ER-7228 Removal of Cisco Dam - Bond Falls Hydroelectric Project, FERC #1864,
Section 32, T45N, R41W, Wakefield Township, Gogebic County (FERC)

Dear Mr. Ecton:

Under the authority of Section 106 of the National Historic Preservation Act of 1966, as amended, we received and reviewed the report entitled Phase I Archaeological Survey of Proposed Cisco Lake Dam Reconstruction on the Bond Falls Hydroelectric Project in Watersmeet Township, Gogebic County, Michigan (AVD 2012).

Three new nondiagnostic lithic scatters were identified during this survey: 20GB451, 20GB452 and 20GB453. Site 20GB453 consisted of three quartz flakes and was not recommended for further work; SHPO concurs and recommends that this site is not eligible for inclusion in the National Register of Historic Places. Sites 20GB452 and 20GB451 likely represent portions of the same site with a cumulative assemblage of 48 quartz and chert artifacts from 20 positive shovel tests. These two sites have the potential to provide additional data and were recommended to be avoided by future construction; SHPO concurs and recommends that more information is needed to assess the eligibility of these sites for inclusion in the National Register of Historic Places. The Application for License Amendment, Removal of the Cisco Development from the Bond Falls Hydroelectric Project FERC Project No. 1864 (December 2, 2011) protects known sites through a deed restriction on future ground-disturbing activity. Therefore, we find No Adverse Effect on archaeological resources. In addition, it appears that for this project there will be no historic properties affected in regard to above ground resources.

Based on the information provided for our review, it is the opinion of the State Historic Preservation Officer (SHPO) that the effects of the proposed undertaking do not meet the criteria of adverse effect [36 CFR § 800.5(a)(1)]. Therefore, the project will have **no adverse effect** [36 CFR § 800.5(b)] on historic properties within the area of potential effects for the above-cited undertaking.

The views of the public are essential to informed decision making in the Section 106 process. Federal Agency Officials or their delegated authorities must plan to involve the public in a manner that reflects the nature and complexity of the undertaking, its effects on historic properties and other provisions per 36 CFR § 800.2(d). We remind you that Federal Agency Officials or their delegated authorities are required to consult with the appropriate Indian tribe and/or Tribal Historic Preservation Officer (THPO) when the undertaking may occur on or affect any historic properties on tribal lands. **In all cases**, whether the project occurs on tribal lands or not, Federal Agency Officials or their delegated authorities are also organizations that might attach religious and cultural significance to historic properties in the area of potential effects and invite them to be consulting parties per 36 CFR § 800.2(c).

This letter evidences FERC's compliance with 36 CFR § 800.4 "Identification of historic properties" and 36 CFR § 800.5 "Assessment of adverse effects", and the fulfillment of FERC's responsibility to notify



STATE HISTORIC PRESERVATION OFFICE
702 WEST KALAMAZOO STREET • P.O. BOX 30740 • LANSING, MICHIGAN 48909-8240
www.michigan.gov/shpo (517) 373-1630 FAX (517) 335 0348

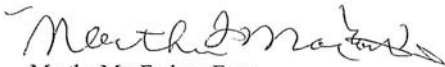
Application for License Amendment – Cisco Development

the SHPO, as a consulting party in the Section 106 process, under 36 CFR § 800.5(c) "Consulting party review".

The State Historic Preservation Office is not the office of record for this undertaking. You are therefore asked to maintain a copy of this letter with your environmental review record for this undertaking. If the scope of work changes in any way, or if artifacts or bones are discovered, please notify this office immediately.

If you have any questions, please contact Brian Grennell, Cultural Resource Management Specialist, at (517) 335-2721 or by email at grennellb@michigan.gov. **Please reference our project number in all communication with this office regarding this undertaking.** Thank you for this opportunity to review and comment, and for your cooperation.

Sincerely,



Martha MacFarlane Faes
Deputy State Historic Preservation Officer

MMF:SAT:ROC:bgg

copy: Shawn Puzen, UPPCO

Application for License Amendment – Cisco Development



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



RODNEY A. STOKES
DIRECTOR

March 14, 2012

Mr. Greg Egtvedt
Upper Peninsula Power Company
700 North Adams Street
P.O. Box 19001
Green Bay, WI 54307-9001

Re: Bond Falls Hydroelectric Project No. 1864: Application for License Amendment – Removal of the Cisco Development from the Bond Falls Hydroelectric Project

Dear Mr. Egtvedt:

Michigan Department of Natural Resources (MDNR) Fisheries Division has reviewed the Application for License Amendment (Application) dated February 14, 2012, which updated an initial draft dated December 2, 2011 received via electronic mail on December 14, 2011. We appreciate Upper Peninsula Power Company's (UPPCO) revisions to the December 2, 2011 draft following a February 14, 2012 conference call with stakeholders. Although we support UPPCO's overall interest in removing Cisco Dam from the Bond Falls Project license, we do not support the license amendment as currently proposed.

We comment herein on the applicable provisions of the FERC license and appurtenant Settlement Agreement (Settlement), and express our concerns regarding how these provisions would be maintained after the transfer of ownership to Gogebic County.

Page 2 of the Application states that a minimum flow is not required at the Cisco Development. We note the absence of a minimum [downstream] flow does not negate the importance of providing a [downstream] flow regime that mimics natural conditions. This is reflected in section 3.1.4.2 of the Settlement Agreement where "UPPCO shall operate Cisco Dam in a manner to attempt to attenuate fluctuations in flows to the river."

Page 7 of the Application paraphrases FERC Order Approving Settlement and Issuing New License dated August 20, 2003 as follows [emphasis added]:

The Agreement also states that UPPCO will attempt, with the Settlement Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the project license. However, the Agreement recognizes that any new owner shall be required to operate the dam according to the Operating Plan developed by the Settlement Team. If UPPCO files with the Commission to have Cisco Dam removed from the project license, UPPCO will be required to install and finance up to \$75,000 (in December 1988 dollars) for a new 75-foot-long, fixed-crest spillway structure. Further, if UPPCO decides to pursue removal of Cisco Dam from the project license, UPPCO will be required to file a

Application for License Amendment – Cisco Development

Mr. Greg Egtvedt
Bond Falls License Amendment – Cisco Dam

March 14, 2012
Page 2 of 4

license amendment, that should include: (1) the reasons for removing Cisco Dam from the project license; (2) a description of the effects that removing Cisco Dam from the project would have on project operation and economics, and other resources such as recreation; (3) a statement of how Cisco Dam would be acquired (e.g., fee simple sale, etc.), maintained, and operated; and (4) consultation with and comments from the Bond Falls Project Implementation Team, Cisco Chain Riparian Owners Association, other federal, state, and local agencies.

Page 7 of the Amendment further cites the original Settlement language [emphasis added]:

UPPCO will attempt, with the Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the Bond Falls Project license. Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team. If Cisco Dam is removed from the license and operated by a new owner, UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.

The Application notes UPPCO's rationale for not providing a 75-foot long, fixed-crest structure, primarily as it relates to cost, and further describes UPPCO's interpretation of Settlement language relative to the required fixed-crest structure. We do not consider the improvements to the dam as a measure that fulfills the commitment to install and finance a fixed-crest spillway. We disagree with UPPCO's interpretation that "another acceptable engineering design" is independent of the 75-foot long, fixed crest spillway structure with a small adjustable spill area. Contrastingly, "another acceptable engineering design" applies to the "small adjustable spill area" such that either the "small adjustable spill area" or "another acceptable engineering design" would be incorporated into the 75-foot long, fixed-crest structure.

The purpose of the fixed-crest structure is to passively maintain a more consistent water level in the Cisco Lakes Impoundment concurrent with reducing the magnitude of river flow fluctuations in Cisco Branch downstream from Cisco Dam. UPPCO's agreement to install and finance the structure was based on the 1996 Cisco Reservoir Fixed-Crest Weir Study¹ by the U.S. Forest Service. The Study concluded that a fixed-crest weir will maintain water level fluctuations within six inches a majority of the time, provide downstream flows over 97 percent of the time, and require minimal management. The Study also concluded: *A 75-foot sharp-crested weir appears to be the most desirable choice based on function, probable cost, and technical feasibility.* The Study provided the technical basis for MDNR's Section 10(j) recommendation during the relicensing proceed, and the Study demonstrated significant water management improvements over the current and proposed dam operations.

¹ Higgins, D. 1996. Cisco Reservoir Fixed Crest Weir Study. United States Forest Service, Ottawa National Forest, Ironwood, MI. (Available through FERC Online: Federal Energy Regulatory Commission submittal 19970710-0397, Docket P-1864-005, dated 7/1/1997, filed 7/8/1997.)

Application for License Amendment – Cisco Development

Mr. Greg Egtvedt
Bond Falls License Amendment – Cisco Dam

March 14, 2012
Page 3 of 4

The intent of the Settlement negotiations regarding the transfer of ownership of Cisco Dam was to assure stakeholders that License and Settlement conditions would be maintained in perpetuity. The fixed-crest structure ultimately minimizes the Cisco Dam owner's responsibilities to manipulate the dam. Alternatives may exist for an acceptable engineering and operational solution that would meet the intent of the negotiated Settlement without compromising the considerable investment that UPPCO has made upgrading the existing dam. We are receptive to exploring alternatives, and an agreement that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

Page 8 of the Application states that the Michigan Department of Environmental Quality (MDEQ) has authority to take enforcement action against a dam owner if the owner lowers the water level below the lower range of the ordinary high water mark. Further, if the license amendment is approved by the Commission, the State of Michigan will be notified of the change in regulatory authority. For clarification, we cite the applicable statute under Michigan's NREPA 451 Part 315 Section 324.31519 as follows

Where significant damage to the public health, safety, welfare, property, and natural resources or the public trust in those natural resources or damage to persons or property occurs or is anticipated to occur due to the operation of a dam, the department may order the owner to limit dam operations. These orders may include, but are not limited to, cold water release, minimum flow releases from dams, impoundment fluctuation restrictions, or requirements for run-of-the-river operation. In issuing these orders, the department shall take into account social, economic, and public trust values.

Should the State of Michigan assume the responsibility of legally regulating water levels, the State could do so under NREPA 451 Part 315 Section 324.31519. However, the State of Michigan has not imposed this particular rule for normal dam operations. Thus, prior to implementation, the rule would require policy development and would prompt an administrative proceeding that would require significant involvement by the BFIT and the new owner.

Page 15 of the Application notes the fishway reservation of authority under Michigan Law Article 451. For clarification, we cite the applicable statute under Michigan's Natural Resources and Environmental Protection Act (NREPA) 451 of 1994 Sec. 324.48303 as follows

Any person owning or using any dam that exists or may be constructed across any river, stream, or creek in this state, if ordered by the department, shall, within 90 days after the issuance of the order, erect and maintain in good repair sufficient and permanent means to admit the free and uninterrupted passage of fish over or through the dam. The means providing for the free passage of fish shall be of a kind and shall be placed in a manner prescribed by the department.

Should fish passage at Cisco Dam be required, fish passage would not likely be established during the 90-day timeline cited under State of Michigan law. Fish passage facilities at other dams throughout the State of Michigan and across the country often require several years to design and install. Therefore, an administrative process would need to be developed and agreed to between MDNR, other members of the Bond Falls Implementation Team (BFIT), and the new

Application for License Amendment – Cisco Development

Mr. Greg Egtvedt
Bond Falls License Amendment – Cisco Dam

March 14, 2012
Page 4 of 4

owner, with the 90-day timeline beginning at a time when construction on a fish passage structure could commence. In addition, MDNR acknowledges any fish passage structure would be designed and constructed in consultation with the BFIT and not solely by MDNR as authorized under NREPA 451 Section 324.48303.

Page 16 of the Application states the license for the Cisco Dam contains the standard license article contained in all UPPCO licenses regarding invasive species. Page 17 of the Application states the Cisco Chain Riparian Owners Association (CCROA) have voluntarily surveyed for and treated invasive aquatic plant species prior to license issuance in 2003. MDNR notes that although standard for all UPPCO licenses, Article 411 specifically implements the intent of the Settlement (Section 4.5) regarding nuisance plant control. We commend CCROA for its voluntary efforts, but recognize that volunteer efforts may cease or be otherwise interrupted at any time, depending on the needs and interests of the volunteers. As such, a need exists to preserve the monitoring requirements of Article 411 through a legally enforceable framework, similar to that established through the FERC license, prior to the transfer of ownership. A framework that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

We appreciate the opportunity to comment on the License Amendment Application, and we look forward to working with you and the Settlement parties to resolve outstanding concerns and move forward toward license amendment. As of March 22, 2012, I will no longer be with MDNR. Thus, prior to that date, I can be reached at (906) 786-2351 x132 or piszczekp@michigan.gov should you have any questions regarding these comments. After March 21, please contact Kyle Kruger at (989-826-3211; krugerk@michigan.gov) or Chris Freiburger (517-373-6644; freiburgerc@michigan.gov).

Very truly yours,



Paul Piszczek
Fisheries Biologist, MDNR - Escanaba Field Office

cc (via email): Vince Cavalieri, USFWS
Bill Deephouse, MHRC
Mark Fedora, USFS
Chris Freiburger, MDNR
Steve Gilbert, WDNR
Kyle Kruger, MDNR
Cheryl Laatsch, WDNR
George Madison, MDNR
Gene Mensch, KBIC
Norm Nass, USFS
Tom Weaver, USGS

Response to Comments of Michigan Department of Natural Resources
March 14, 2012

Comment:

Michigan Department of Natural Resources (MDNR) Fisheries Division has reviewed the Application for License Amendment (Application) dated February 14, 2012, which updated an initial draft dated December 2, 2011 received via electronic mail on December 14, 2011. We appreciate Upper Peninsula Power Company's (UPPCO) revisions to the December 2, 2011 draft following a February 14, 2012 conference call with stakeholders. Although we support UPPCO's overall interest in removing Cisco Dam from the Bond Falls Project license, we do not support the license amendment as currently proposed.

Response:

Comment Noted. The MDNR concerns are misguided and are outside of the requirements of this application to demonstrate that the Cisco Dam is not necessary for the operation of the hydroelectric project as demonstrated by the responses to their comments listed below.

Comment:

We comment herein on the applicable provisions of the FERC license and appurtenant Settlement Agreement (Settlement), and express our concerns regarding how these provisions would be maintained after the transfer of ownership to Gogebic County.

Response:

Comment Noted

Comment:

Page 2 of the Application states that a minimum flow is not required at the Cisco Development. We note the absence of a minimum [downstream] flow does not negate the importance of providing a [downstream] flow regime that mimics natural conditions. This is reflected in section 3.1.4.2 of the Settlement Agreement where "UPPCO shall operate Cisco Dam in a manner to attempt to attenuate fluctuations in flows to the river."

Response:

The application states under Article 402 that there is no minimum flow requirement for the Cisco Development. Operating the Cisco Dam in a manner to attempt to attenuate fluctuations in flows to the river pertains to "high-flow" periods as demonstrated as the stated reason for the fixed-crest spillway in Section 3.1.4.3. The MDNR has been and continues to be mistaken about the purpose of the application as described on page 2 of the application to demonstrate the facility and its associated project lands are not necessary for the operation of the hydroelectric project as a whole. Although not stated as a requirement in the Settlement Agreement, the MDNR continues to use the proposed application as a method to attempt to obtain steady continuous minimum flow releases from the Cisco Dam even though the current license does not require minimum flow releases or continuous releases of water from the Cisco Dam. Since continuous minimum flow releases are not required by the current license, the MDNR comment is outside of the scope of the application to demonstrate the Cisco Dam is not necessary for the operation of the overall hydroelectric project.

Comment:

Page 7 of the Application paraphrases FERC Order Approving Settlement and Issuing New License dated August 20, 2003 as follows [emphasis added]:

The Agreement also states that UPPCO will attempt, with the Settlement Team's support to find a new owner for Cisco Dam in order to allow to be removed from the project license. However, the Agreement recognizes that any new owner shall be required to operate the dam according to the Operating Plan developed by the Settlement Team. If UPPCO files with the Commission to have Cisco Dam removed from the project license, UPPCO will be required to install and finance up to \$75,000 (in December 1988 dollars) for a new 75-foot-long, fixed-crest spillway structure. Further; if UPPCO decides to pursue removal of Cisco Dam from the project license, UPPCO will be required to file a license amendment, that should include: (1) the reasons for removing Cisco Dam from the project license; (2) a description of the effects that removing Cisco Dam from the project would have on project operation and economics, and other resources such as recreation; (3) a statement of how Cisco Dam would be acquired (e.g., fee simple sale, etc.), maintained, and operated; and (4) consultation with and comments from the Bond Falls Project Implementation Team, Cisco Chain Riparian Owners Association, other federal, state, and local agencies.

Page 7 of the Amendment further cites the original Settlement language [emphasis added]:

*UPPCO will attempt, with the Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the Bond Falls Project license. Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team.
If Cisco Dam is removed from the license and operated by a new owner, UPPCO shall install and finance up to \$75,000 On December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.*

The Application notes UPPCO's rationale for not providing a 75-foot long, fixed-crest structure, primarily as it relates to cost, and further describes UPPCO's interpretation of Settlement language relative to the required fixed-crest structure. We do not consider the improvements to the dam as a measure that fulfills the commitment to install and finance a fixed-crest spillway. We disagree with UPPCO's interpretation that "another acceptable engineering design" is independent of the 75-foot long, fixed crest spillway structure with a small adjustable spill area. Contrastingly, "another acceptable engineering design" applies to the "small adjustable spill area" such that either the "small adjustable spill area" or "another acceptable engineering design" would be incorporated into the 75-foot long, fixed-crest structure.

Response:

UPPCO's rationale for not providing the 75-foot long, fixed-crest spillway is due primarily to the improvements that have already been made to the dam when the highway bridge was rebuilt. The improvements that have already been made allow for dam operation as established in the Operating Plan for very high flow periods as required and specifically stated as a reason for the fixed-crest spillway under Section 3.1.4.3 of the Settlement Agreement .

Comment:

The purpose of the fixed-crest structure is to passively maintain a more consistent water level in the Cisco Lakes Impoundment concurrent with reducing the magnitude of river flow fluctuations in Cisco Branch downstream from Cisco Dam. UPPCO's agreement to install and finance the structure was based on the 1996 Cisco Reservoir Fixed-Crest Weir study by the U.S. Forest Service. The Study concluded that a fixed-crest weir will maintain water level fluctuations within six inches a majority of the time, provide downstream flows over 97 percent of the time, and require minimal management. The Study also concluded: *A 75-foot sharp-crested weir appears to be the most desirable choice based on function, probable cost, and technical feasibility.*

Response:

The U.S. Forest Service Study may have been the MDNR's justification for the fixed crest spillway. However, it is not UPPCO's justification, nor the official justification of the signatories to the Settlement Agreement because the U.S. Forest Service Study was not appended to the Settlement Agreement. Therefore, the plain reading of Section 3.1.4.3 prevails where the justification is "for very high flow periods to allow dam operation as established in the Operating Plan."

Comment:

The Study provided the technical basis for MDNR's Section 10(j) recommendation during the relicensing process, and the Study demonstrated significant water management improvements over the current and proposed dam operations.

Response:

In addition, all of the 10(j) recommendations provided during relicensing were considered consistent with the license requirements and Settlement Agreement because the MDNR is a signatory to the Settlement Agreement. Therefore, one needs to review the requirements of the license and the Settlement Agreement to interpret the 10(j) recommendations. They are not a separate recommendation and cannot be considered to mean something different than the plain reading of the Settlement Agreement and the license.

Comment:

The intent of the Settlement negotiations regarding the transfer of ownership of Cisco Dam was to assure stakeholders that License and Settlement conditions would be maintained in perpetuity. The fixed-crest structure ultimately minimizes the Cisco Dam owner's responsibilities to manipulate the dam. Alternatives may exist for an acceptable engineering and operational solution that would meet the intent of the negotiated Settlement without compromising the considerable investment that UPPCO has made upgrading the existing dam. We are receptive to exploring alternatives, and an agreement that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

Response:

Any additional negotiations with the MDNR or USDA-Forest Service to exploring additional alternatives will not yield any results. UPPCO is not requesting the FERC to interpret the requirements of the Settlement Agreement because the Settlement Agreement indicates that good faith negotiations must occur for at least 90 days and then a Facilitator/Arbitrator must be engaged. If facilitator/arbitrator is unsuccessful then the dispute will be referred to the FERC.

The terms of the Settlement Agreement under Section 3.1.4.3 indicate “UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.”

To resolve this conflict between UPPCO and the MDNR and USDA-Forest Service, UPPCO will make available up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan for no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project License. Since the project cannot be completed only with the money contribution of UPPCO, the MDNR and the USDA-Forest Service will have to secure the necessary funding for design, permitting and approval of the project in addition to the remaining funds required for construction. Once the funding is secured, the design, permitting and approvals are completed along with the non-UPPCO share of construction, UPPCO will complete its required share of the installation according to Section 3.1.4.3 of the Settlement Agreement. The MDNR and the USDA-Forest Service have no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project to complete their portions of the construction in order for UPPCO to provide its share of the project.

Comment:

Page 8 of the Application states that the Michigan Department of Environmental Quality (MDEQ) has authority to take enforcement action against a dam owner if the owner lowers the water level below the lower range of the ordinary high water mark. Further, if the license amendment is approved by the Commission, the State of Michigan will be notified of the change in regulatory authority. For clarification, we cite the applicable statute under Michigan's NREPA 451 Part 3 15 Section 324.3 1519 as follows

Where significant damage to the public health, safety, welfare, property, and natural resources or the public trust in those natural resources or damage to persons or property occurs or is anticipated to occur due to the operation of a dam, the department may order the owner to limit dam operations. These orders may include, but are not limited to, cold water release, minimal flow releases from dams, impoundment fluctuation restrictions, or requirements for run-of-the-river operation. In issuing these orders, the department shall take into account social, economic, and public trust values.

Should the State of Michigan assume the responsibility of legally regulating water levels, the State could do so under NREPA 451 Part 315 Section 324.3 1519. However, the State of Michigan has not imposed this particular rule for normal dam operations. Thus, prior to implementation, the rule would require policy development and would prompt an administrative proceeding that would require significant involvement by the BFIT and the new owner.

Response:

Comment Noted

Comment:

Page 15 of the Application notes the fishway reservation of authority under Michigan Law Article 451. For clarification, we cite the applicable statute under Michigan's Natural Resources and Environmental Protection Act (NREPA) 451 of 1994 Sec. 324.48303 as follows

Application for License Amendment – Cisco Development

Any person owning or using any dam that exists or may be constructed across any river, stream, or creek in this state, if ordered by the department, shall, within 90 days after the issuance of the order; erect and maintain good repair sufficient and permanent means to admit the free and uninterrupted passage of fish over or through the dam. The means providing for the free passage of fish shall be of a kind and shall be placed in a manner prescribed by the department.

Should fish passage at Cisco Dam be required, fish passage would not likely be established during the 90-day timeline cited under State of Michigan law. Fish passage facilities at other dams throughout the State of Michigan and across the country often require several years to design and install. Therefore, an administrative process would need to be developed and agreed to between MDNR, other members of the Bond Falls Implementation Team (BFIT), and the new owner, with the 90-day timeline beginning at a time when construction on a fish passage structure could commence. In addition, MDNR acknowledges any fish passage structure would be designed and constructed in consultation with the BFIT and not solely by MDNR as authorized under NREPA 451 Section 324.48303.

Response:

Comment Noted.

Comment:

Page 16 of the Application states the license for the Cisco Dam contains the standard license article contained in all UPPCO licenses regarding invasive species. Page 17 of the Application states the Cisco Chain Riparian Owners Association (CCROA) have voluntarily surveyed for and treated invasive aquatic plant species prior to license issuance in 2003. MDNR notes that although standard for all UPPCO licenses, Article 411 specifically implements the intent of the Settlement (Section 4.5) regarding nuisance plant control. We commend CCROA for its voluntary efforts, but recognize that volunteer efforts may cease or be otherwise interrupted at any time, depending on the needs and interests of the volunteers. As such, a need exists to preserve the monitoring requirements of Article 411 through a legally enforceable framework, similar to that established through the FERC license, prior to the transfer of ownership. A framework that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

Response:

A legally enforceable framework is not necessary. As explained in the application, the Bond Falls Implementation Team has been funding numerous grants for invasive species control on lakes within the Ontonagon Watershed regardless of whether or not they reside within the project boundary of the Bond Falls Hydroelectric Project. In addition, the Bond Falls Implementation Team has funded invasive species control on Clearwater Lake of the Cisco Chain that is not within the Bond Falls Hydroelectric Project Boundary.

In addition, several representatives of the Bond Falls Implementation Team have recommended grant proposals that have been accepted and approved by the team. As a result, through the Bond Falls Implementation Team there exists a very practical method for funding invasive species monitoring and control on the Cisco Chain even though it will no longer exist within the Bond Falls Hydroelectric Project. If the MDNR feels it is necessary for the resource for invasive species monitoring and control on the Cisco Chain, it can apply to the Bond Falls Implementation Team (which it is a member of) for a grant to complete the work each year.

Continuing to fund invasive species work through the Bond Falls Implementation Team on a grant basis is the exact same source of funding that currently funds invasive species work within the project

Application for License Amendment – Cisco Development

boundary. Both are funded by the Mitigation Enhancement Fund established by the Settlement Agreement.

Application for License Amendment – Cisco Development



United States
Department of
Agriculture

Forest
Service

Ottawa National Forest
Watersmeet Ranger – Iron
River Ranger District

E23979 US 2 East
Watersmeet, Michigan 49969
(906)358-4551
(906)358-4000 FAX
(906)358-4006 TTY

File Code: 7510-1

Date: March 16, 2012

Mr. Greg Egtvedt
Environmental Services - Natural Resources Management
Upper Peninsula Power Company
700 North Adams Street
P.O. Box 19001
Green Bay, WI 54307-9001

Re: Application for License Amendment – Removal of the Cisco Development from the Bond Falls Hydroelectric Project FERC Project No. 1864

Dear Mr. Egtvedt,

The Ottawa National Forest has reviewed the February 15, 2012 Application for License Amendment (Application). The Forest Service, in its role as a member of the Bond Falls Implementation Team and as party of the Bond Falls Settlement Agreement continues to support UPPCO's attempt to find a new owner for Cisco Dam in order to allow it to be removed from the Bond Falls Project license. Forest Service comments on the Application for License Amendment are as follows: the Ottawa National Forest does not support the license amendment as currently proposed as we do not believe the proposal is consistent with the terms of the Settlement Agreement. The following describes applicable portions of the Settlement Agreement and associated concerns the Ottawa National Forest has with the proposed license amendment.

Pages 8 and 9 of the Application include an acquisition, maintenance and operation statement. This includes conditions of the proposed sale and statements directly from the Settlement Agreement concerning the responsibilities of the new owner. UPPCO has also paraphrased sections from the Settlement Agreement which directly address conditions applicable to the removal of the Cisco Dam from the license and operation by a new owner. Section 3.1.4.3 of the Bond Fall Settlement Agreement states:

UPPCO will attempt, with the Settlement Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the project license. Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team. If Cisco Dam is removed from the project license, UPPCO shall install and finance up to \$75,000 (in December 1988 dollars adjusted for CPI – 0.5%) for a new 75-foot-long, fixed-crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.

The Application notes UPPCO's rationale for not providing a 75-foot long, fixed-crest structure, primarily as it relates to improvements made to the dam in conjunction with the rebuilding of the



Caring for the Land and Serving People

Application for License Amendment – Cisco Development

Gogebic County road bridge across the dam, the cost of that repair work (\$70,000 in 2008) and cost and feasibility of constructing a 75-foot-long fixed crest spillway structure. In 1996 the Forest Service evaluated lake level and outflow conditions associated with several scenarios (*Cisco Reservoir Fixed-Crest Weir Study, Bond Falls Project*, Dale Higgins, Hydrologist, Ottawa National Forest, 1996). That study stated that the Forest Service shares the same water level concerns as the Cisco Riparian Owners, but is also concerned about downstream flows. The study concluded that “*Analysis of a variety of fixed-crest weir lengths indicated it would be hydrologically feasible to construct a fixed-crest weir that will keep water level fluctuations within six inches a majority of the time, provide downstream flows over 97 percent of the time and require minimal management*”. The study also concluded that “*A 75-foot sharp-crested weir appears to be the most desirable choice based on function, probable cost, and technical feasibility*”. The purpose of the fixed-crest structure is to passively maintain a more consistent water level in the Cisco Lakes Impoundment concurrent with reducing the magnitude of river flow fluctuations in Cisco Branch downstream from Cisco Dam. The Forest Service does not consider the improvements to the dam as a measure that fulfills the commitment to install and finance a fixed-crest spillway. Additionally, the improvements to the dam do not address the concerns about downstream flows. The Forest Service disagrees with UPPCO’s interpretation that “another acceptable engineering design” is independent of the 75-foot long, fixed crest spillway structure with a small adjustable spill area. The language included in the Settlement Agreement: “another acceptable engineering design” applies specifically to the “small adjustable spill area” such that either the “small adjustable spill area” or “another acceptable engineering design” would be incorporated into the 75-foot long, fixed-crest structure.

The intent of the Settlement negotiations regarding the transfer of ownership of Cisco Dam was to assure stakeholders that License and Settlement conditions would be maintained in perpetuity. This is supported by a statement in the Final Environmental Impact Statement prepared by FERC, June 2002, which states on page 19: “*Any new owner would be bound by the terms of the Settlement Agreement, in regard to the operation of Cisco dam, whether or not the dam continues as a part of the license*”. The Forest Service is receptive to exploring alternatives which may exist for an acceptable engineering and operational solution that would meet the intent of the Settlement Agreement. Without the development of a 75-foot-long fixed crest weir or the opportunity to consider acceptable alternatives that meet the intent of the Settlement Agreement the Forest Service does not support removal of the dam from the license or transfer of ownership.

I appreciate the opportunity to comment on the License Amendment Application, and I look forward to working with you and the Bond Falls Implementation Team to resolve outstanding concerns and move forward toward license amendment. Feel free to contact me if you have any questions regarding these comments.

Sincerely,



NORMAN E. NASS
District Ranger

Response to Comments of USDA-Forest Service
March 16, 2012

The Ottawa National Forest has reviewed the February 15, 2012 Application for License Amendment (Application). The Forest Service, in its role as a member of the Bond Falls Implementation Team and as party of the Bond Falls Settlement Agreement continues to support UPPCO's attempt to find a new owner for Cisco Dam in order to allow it to be removed from the Bond Falls Project license. Forest Service comments on the Application for License Amendment are as follows: the Ottawa National Forest does not support the license amendment as currently proposed as we do not believe the proposal is consistent with the terms of the Settlement Agreement. The following describes applicable portions of the Settlement Agreement and associated concerns the Ottawa National Forest has with the proposed license amendment.

Comment:

Pages 8 and 9 of the Application include an acquisition, maintenance and operation statement. This includes conditions of the proposed sale and statements directly from the Settlement Agreement concerning the responsibilities of the new owner. UPPCO has also paraphrased sections from the Settlement Agreement which directly address conditions applicable to the removal of the Cisco Dam from the license and operation by a new owner. Section 3.1.4.3 of the Bond Fall Settlement Agreement states:

UPPCO will attempt, with the Settlement Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the project license. Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team. If Cisco Dam is removed from the project license, UPPCO shall install and finance up to \$75,000 (in December 1988 dollars adjusted for CPI - 0.5%) for a new 75-foot-long, fixed-crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.

The Application notes UPPCO's rationale for not providing a 75-foot long, fixed-crest structure, primarily as it relates to improvements made to the dam in conjunction with the rebuilding of the Gogebic County road bridge across the dam, the cost of that repair work (\$70,000 in 2008) and cost and feasibility of constructing a 75-foot-long fixed crest spillway structure. In 1996 the Forest Service evaluated lake level and outflow conditions associated with several scenarios (*Cisco Reservoir Fixed-Crest Weir Study, Bond Falls Project, Dale Higgins, Hydrologist, Ottawa National Forest, 1996*). That study stated that the Forest Service shares the same water level concerns as the Cisco Riparian owners, but is also concerned about downstream flows. The study concluded that *"Analysis of a variety of fixed-crest weir lengths indicated it would be hydrologically feasible to construct fixed-crest weir that will keep water level fluctuations within six inches a majority of the time, provide downstream flows over 97 percent of the time and require minimal management"*. The study also concluded that *"A 75-foot sharp-crested weir appears to be the most desirable choice based on function, probable cost, and technical feasibility"*. The purpose of the fixed-crest structure is to passively maintain a more consistent water level in the Cisco Lakes Impoundment concurrent with reducing the magnitude of river flow fluctuations in Cisco Branch downstream from Cisco Dam. The Forest Service does not consider the improvements to the dam as a measure that fulfills the commitment to install and finance a fixed-crest spillway. Additionally, the improvements to the dam do not address the concerns about downstream flows. The Forest Service disagrees with UPPCO's

interpretation that "another acceptable engineering design" is independent of the 75-foot long, fixed crest spillway structure with a small adjustable spill area. The language included in the Settlement Agreement: "another acceptable engineering design" applies specifically to the "small adjustable spill area" such that either the "small adjustable spill area" or "another acceptable engineering design" would be incorporated into the 75-foot long, fixed-crest structure.

The intent of the Settlement negotiations regarding the transfer of ownership of Cisco Dam was to assure stakeholders that License and Settlement conditions would be maintained in perpetuity. This is supported by a statement in the Final Environmental Impact Statement prepared by FERC, June 2002, which states on page 19: *"Any new owner would be bound by the terms of the Settlement Agreement, in regard to the operation of Cisco dam, whether or not the dam continues as a part of the license"*. The Forest Service is receptive to exploring alternatives which may exist for an acceptable engineering and operational solution that would meet the intent of the Settlement Agreement. Without the development of a 75-foot-long fixed crest weir or the opportunity to consider acceptable alternatives that meet the intent of the Settlement Agreement the Forest Service does not support removal of the dam from the license or transfer of ownership.

Response:

Any additional negotiations with the MDNR or USDA-Forest Service to exploring additional alternatives will not yield any results.

The terms of the Settlement Agreement under Section 3.1.4.3 indicate "UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan."

To resolve this conflict between UPPCO and the MDNR and USDA-Forest Service, UPPCO will make available up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan for no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project License. Since the project cannot be completed only with the money contribution of UPPCO, the MDNR and the USDA-Forest Service will have to secure the necessary funding for design, permitting and approval of the project in addition to the remaining funds required for construction. Once the funding is secured, the design, permitting and approvals are completed along with the non-UPPCO share of construction, UPPCO will complete its required share of the installation according to Section 3.1.4.3 of the Settlement Agreement. The MDNR and the USDA-Forest Service have no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project to complete their portions of the construction in order for UPPCO to provide its share of the project.

Application for License Amendment – Cisco Development

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
 101 S. Webster Street
 P.O. Box 7921
 Madison, WI 53707-7921

Scott Walker, Governor
 Cathy Stepp, Secretary
 Telephone 608-266-2621
 FAX 608-267-3579
 TTY Access via relay - 711



April 9, 2012

Mr. Greg Egtvedt
 Environmental Services - Natural Resources Management
 Upper Peninsula Power Company
 700 North Adams Street
 P.O. Box 19001
 Green Bay, WI 54307-9001

Re: Bond Falls Hydroelectric Project No. 1864: Application for License Amendment – Removal of the Cisco Development from the Bond Falls Hydroelectric Project

Dear Mr. Egtvedt:

Wisconsin Department of Natural Resources (WDNR) has reviewed the Application for License Amendment (Application) dated February 14, 2012, which updated an initial draft dated December 2, 2011 received via electronic mail on December 14, 2011. We appreciate UPPCO revisions to the December 2, 2011 draft following a February 14, 2012 conference call with stakeholders. Although we support UPPCO's overall interest in removing Cisco Dam from the Bond Falls Project license, we do not support the license amendment as currently proposed.

We comment herein on the applicable provisions of the FERC license and appurtenant Settlement Agreement (Settlement), and express our concerns regarding how these provisions would be maintained after the transfer of ownership to Gogebic County.

Page 2 of the Application states that a minimum flow is not required at the Cisco Development. We note the absence of a minimum [downstream] flow does not negate the importance of providing a [downstream] flow regime that mimics natural conditions. This is reflected in section 3.1.4.2 of the Settlement Agreement where "UPPCO shall operate Cisco Dam in a manner to attempt to attenuate fluctuations in flows to the river."

Page 7 of the Application paraphrases FERC Order Approving Settlement and Issuing New License dated August 20, 2003 as follows [emphasis added]:

The Agreement also states that UPPCO will attempt, with the Settlement Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the project license. However, the Agreement recognizes that any new owner shall be required to operate the dam according to the Operating Plan developed by the Settlement Team. If UPPCO files with the Commission to have Cisco Dam removed from the project license, UPPCO will be required to install and finance up to \$75,000 (in December 1988 dollars) for a new 75-foot-long, fixed-crest

spillway structure. Further, if UPPCO decides to pursue removal of Cisco Dam from the project license, UPPCO will be required to file a license amendment, that should include: (1) the reasons for removing Cisco Dam from the project license; (2) a description of the effects that removing Cisco Dam from the project would have on project operation and economics, and other resources such as recreation; (3) a statement of how Cisco Dam would be acquired (e.g., fee simple sale, etc.), maintained, and operated; and (4) consultation with and comments from the Bond Falls Project Implementation Team, Cisco Chain Riparian Owners Association, other federal, state, and local agencies.

Page 7 of the Amendment further cites the original Settlement language [emphasis added]:

UPPCO will attempt, with the Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the Bond Falls Project license. Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team. If Cisco Dam is removed from the license and operated by a new owner, UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.

The Application notes UPPCO's rationale for not providing a 75-foot long, fixed-crest structure, primarily as it relates to cost, and further describes UPPCO's interpretation of Settlement language relative to the required fixed-crest structure. WDNR does not consider the improvements to the dam as a measure that fulfills the commitment to install and finance a fixed-crest spillway. We also disagree with UPPCO's interpretation that "another acceptable engineering design" is independent of the 75-foot long, fixed crest spillway structure with a small adjustable spill area. Contrastingly, "another acceptable engineering design" applies to the "small adjustable spill area" such that either the "small adjustable spill area" or "another acceptable engineering design" would be incorporated into the 75-foot long, fixed-crest structure.

The purpose of the fixed-crest structure is to passively maintain a more consistent water level in the Cisco Lakes Impoundment concurrent with reducing the magnitude of river flow fluctuations in Cisco Branch downstream from Cisco Dam. UPPCO's agreement to install and finance the structure was based on the 1996 Cisco Reservoir Fixed-Crest Weir Study¹ by the U.S. Forest Service. The Study concluded that a fixed-crest weir will maintain water level fluctuations within six inches a majority of the time, provide downstream flows over 97 percent of the time, and require minimal management. The Study also concluded: *A 75-foot sharp-crested weir appears to be the most desirable choice based on function, probable cost, and technical feasibility.*

The intent of the Settlement negotiations regarding the transfer of ownership of Cisco Dam was to assure stakeholders that License and Settlement conditions would be maintained in perpetuity. The fixed-crest structure ultimately minimizes the Cisco Dam owner's responsibilities to manipulate the dam.

Alternatives may exist for an acceptable engineering and operational solution that would meet the intent of the negotiated Settlement without compromising the considerable investment that UPPCO has made upgrading the existing dam. We are receptive to exploring alternatives, and an agreement that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

Page 8 of the Application states that the Michigan Department of Environmental Quality (MDEQ) has authority to take enforcement action against a dam owner if the owner lowers the water level below the lower range of the ordinary high water mark. Further, if the license amendment is approved by the Commission, the State of

Application for License Amendment – Cisco Development

Michigan will be notified of the change in regulatory authority. For clarification, we cite the applicable statute under Michigan's NREPA 451 Part 315 Section 324.31519 as follows

Where significant damage to the public health, safety, welfare, property, and natural resources or the public trust in those natural resources or damage to persons or property occurs or is anticipated to occur due to the operation of a dam, the department may order the owner to limit dam operations. These orders may include, but are not limited to, cold water release, minimum flow releases from dams, impoundment fluctuation restrictions, or requirements for run-of-the-river operation. In issuing these orders, the department shall take into account social, economic, and public trust values.

Should the State of Michigan assume the responsibility of legally regulating water levels, the State could do so under NREPA 451 Part 315 Section 324.31519. However, the State of Michigan has not imposed this particular rule for normal dam operations. Thus, prior to implementation, the rule would require policy development and would prompt an administrative proceeding that would require significant involvement by the BFIT and the new owner.

Page 16 of the Application states the license for the Cisco Dam contains the standard license article contained in all UPPCO licenses regarding invasive species.

Page 17 of the Application states the Cisco Chain Riparian Owners Association (CCROA) have voluntarily surveyed for and treated invasive aquatic plant species prior to license issuance in 2003. WDNR notes that although standard for all UPPCO licenses, Article 411 specifically implements the intent of the Settlement (Section 4.5) regarding nuisance plant control. We commend CCROA for its voluntary efforts, but recognize that volunteer efforts may cease or be otherwise interrupted at any time, depending on the needs and interests of the volunteers. As such, a need exists to preserve the monitoring requirements of Article 411 through a legally enforceable framework, similar to that established through the FERC license, prior to the transfer of ownership. A framework that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

We appreciate the opportunity to comment on the License Amendment Application, and we look forward to working with you and the Settlement parties to resolve outstanding concerns and move forward toward license amendment, and transfer of dam ownership. If you have any questions regarding this letter, please contact our Fishery Biologist, Steve Gilbert, at stephen.gilbert@wisconsin.gov or by telephone at (715) 356-5211 x229.

Regards,



Cheryl Laatsch
WDNR, Acting FERC Coordinator

Cc: FERC (via email):

Response to Comments of Wisconsin Department of Natural Resources
April 9, 2012

Comment:

Wisconsin Department of Natural Resources (WDNR) has reviewed the Application for License Amendment (Application) dated February 14, 2012, which updated an initial draft dated December 2, 2011 received via electronic mail on December 14, 2011. We appreciate UPPCO revisions to the December 2, 2011 draft following a February 14, 2012 conference call with stakeholders. Although we support UPPCO's overall interest in removing Cisco Dam from the Bond Falls Project license, we do not support the license amendment as currently proposed.

Response:

Comment Noted.

Comment:

We comment herein on the applicable provisions of the FERC license and appurtenant Settlement Agreement (Settlement), and express our concerns regarding how these provisions would be maintained after the transfer of ownership to Gogebic County.

Response:

Comment Noted.

Comment:

Page 2 of the Application states that a minimum flow is not required at the Cisco Development. We note the absence of a minimum [downstream] flow does not negate the importance of providing a [downstream] flow regime that mimics natural conditions. This is reflected in section 3.1.4.2 of the Settlement Agreement where "UPPCO shall operate Cisco Dam in a manner to attempt to attenuate fluctuations in flows to the river."

Response:

The application states under Article 402 that there is no minimum flow requirement for the Cisco Development. Operating the Cisco Dam in a manner to attempt to attenuate fluctuations in flows to the river pertains to "high-flow" periods as demonstrated as the stated reason for the fixed-crest spillway in Section 3.1.4.3. The MDNR has been and continues to be mistaken about the purpose of the application as described on page 2 of the application to demonstrate the facility and its associated project lands are not necessary for the operation of the hydroelectric project as a whole. Although not stated as a requirement in the Settlement Agreement, the WDNR continues to use the proposed application as a method to attempt to obtain steady continuous minimum flow releases from the Cisco Dam even though the current license does not require minimum flow releases or continuous releases of water from the Cisco Dam. Since continuous minimum flow releases are not required by the current license, the MDNR comment is outside of the scope of the application to demonstrate the Cisco Dam is not necessary for the operation of the overall hydroelectric project.

Comment:

Page 7 of the Application paraphrases FERC Order Approving Settlement and Issuing New License dated August 20, 2003 as follows [emphasis added]:

The Agreement also states that UPPCO will attempt, with the Settlement Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the project license. However, the Agreement recognizes that any new owner shall be required to operate the dam according to the Operating Plan developed by the Settlement Team. If UPPCO files with the Commission to have Cisco Dam removed from the project license, UPPCO will be required to install and finance up to \$75,000 (in December 1988 dollars) for a new 75-foot-long, fixed-crest spillway structure. Further, if UPPCO decides to pursue removal of Cisco Dam from the project license, UPPCO will be required to file a license amendment, that should include: (1) the reasons for removing Cisco Dam from the project license; (2) a description of the effects that removing Cisco Dam from the project would have on project operation and economics, and other resources such as recreation; (3) a statement of how Cisco Dam would be acquired (e.g., fee simple sale, etc.), maintained, and operated; and (4) consultation with and comments from the Bond Falls Project Implementation Team, Cisco Chain Riparian Owners Association, other federal, state, and local agencies.

Page 7 of the Amendment further cites the original Settlement language [emphasis added]:

UPPCO will attempt, with the Team's support, to find a new owner for Cisco Dam in order to allow it to be removed from the Bond Falls Project license. Any new owner shall be required to operate the dam according to the Operating Plan developed by the Team. If Cisco Dam is removed from the license and operated by a new owner, UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan.

The Application notes UPPCO's rationale for not providing a 75-foot long, fixed-crest structure, primarily as it relates to cost, and further describes UPPCO's interpretation of Settlement language relative to the required fixed-crest structure. WDNR does not consider the improvements to the dam as a measure that fulfills the commitment to install and finance a fixed-crest spillway. We also disagree with UPPCO's interpretation that "another acceptable engineering design" is independent of the 75-foot long, fixed crest spillway structure with a small adjustable spill area. Contrastingly, "another acceptable engineering design" applies to the "small adjustable spill area" such that either the "small adjustable spill area" or "another acceptable engineering design" would be incorporated into the 75-foot long, fixed-crest structure.

Response:

UPPCO's rationale for not providing the 75-foot long, fixed-crest spillway is due primarily to the improvements that have already been made to the dam when the highway bridge was rebuilt. The improvements that have already been made allow for dam operation as established in the Operating Plan for very high flow periods as required and specifically stated as a reason for the fixed-crest spillway under Section 3.1.4.3 of the Settlement Agreement.

Comment:

The purpose of the fixed-crest structure is to passively maintain a more consistent water level in the Cisco Lakes Impoundment concurrent with reducing the magnitude of river flow fluctuations in Cisco Branch downstream from Cisco Dam. UPPCO's agreement to install and finance the structure was based on the 1996 Cisco Reservoir Fixed-Crest Weir Study¹ by the U.S. Forest Service. The Study concluded

that a fixed-crest weir will maintain water level fluctuations within six inches a majority of the time, provide downstream flows over 97 percent of the time, and require minimal management. The Study also concluded: *A 75-foot sharp-crested weir appears to be the most desirable choice based on function, probable cost, and technical feasibility.*

Response:

The U.S. Forest Service Study may have been the MDNR's justification for the fixed crest spillway. However, it is not UPPCO's justification, nor the official justification of the signatories to the Settlement Agreement because the U.S. Forest Service Study was not appended to the Settlement Agreement. Therefore, the plain reading of Section 3.1.4.3 prevails where the justification is to allow dam operation as established in the Operating plan during very high-flow periods.

In addition, all of the 10(j) recommendations provided during relicensing were considered consistent with the license requirements and Settlement Agreement because the MDNR is a signatory to the Settlement Agreement. Therefore, one needs to review the requirements of the license and the Settlement Agreement to interpret the 10(j) recommendations. They are not a separate recommendation and cannot be considered to mean something different than the plain reading of the Settlement Agreement and the license.

Comment:

The intent of the Settlement negotiations regarding the transfer of ownership of Cisco Dam was to assure stakeholders that License and Settlement conditions would be maintained in perpetuity. The fixed-crest structure ultimately minimizes the Cisco Dam owner's responsibilities to manipulate the dam.

Alternatives may exist for an acceptable engineering and operational solution that would meet the intent of the negotiated Settlement without compromising the considerable investment that UPPCO has made upgrading the existing dam. We are receptive to exploring alternatives, and an agreement that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

Response:

Any additional negotiations with the MDNR or USDA-Forest Service to exploring additional alternatives will not yield any results. UPPCO is not requesting the FERC to interpret the requirements of the Settlement Agreement because the Settlement Agreement indicates that good faith negotiations must occur for at least 90 days and then a Facilitator/Arbitrator must be engaged. If facilitator/arbitrator is unsuccessful then the dispute will be referred to the FERC.

The terms of the Settlement Agreement under Section 3.1.4.3 indicate "UPPCO shall install and finance up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan."

To resolve this conflict between UPPCO and the MDNR and USDA-Forest Service, UPPCO will make available up to \$75,000 (in December 1998 dollars adjusted for CPI-0.5%) for a 75-foot long, fixed crest spillway structure with a small adjustable spill area or another acceptable engineering design for very high-flow periods to allow dam operation as established in the Operating Plan for no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project

License. Since the project cannot be completed only with the money contribution of UPPCO, the MDNR and the USDA-Forest Service will have to secure the necessary funding for design, permitting and approval of the project in addition to the remaining funds required for construction. Once the funding is secured, the design, permitting and approvals are completed along with the non-UPPCO share of construction, UPPCO will complete its required share of the installation according to Section 3.1.4.3 of the Settlement Agreement. The MDNR and the USDA-Forest Service have no more than five years after the date of the Order removing the Cisco Dam from the Bond Falls Hydroelectric Project to complete their portions of the construction in order for UPPCO to provide its share of the project.

Comment:

Page 8 of the Application states that the Michigan Department of Environmental Quality (MDEQ) has authority to take enforcement action against a dam owner if the owner lowers the water level below the lower range of the ordinary high water mark. Further, if the license amendment is approved by the Commission, the State of Michigan will be notified of the change in regulatory authority. For clarification, we cite the applicable statute under Michigan's NREPA 451 Part 315 Section 324.31519 as follows

Where significant damage to the public health, safety, welfare, property, and natural resources or the public trust in those natural resources or damage to persons or property occurs or is anticipated to occur due to the operation of a dam, the department may order the owner to limit dam operations. These orders may include, but are not limited to, cold water release, minimum flow releases from dams, impoundment fluctuation restrictions, or requirements for run-of-the-river operation. In issuing these orders, the department shall take into account social, economic, and public trust values.

Should the State of Michigan assume the responsibility of legally regulating water levels, the State could do so under NREPA 451 Part 315 Section 324.31519. However, the State of Michigan has not imposed this particular rule for normal dam operations. Thus, prior to implementation, the rule would require policy development and would prompt an administrative proceeding that would require significant involvement by the BFIT and the new owner.

Response:

Comment Noted

Comment:

Page 16 of the Application states the license for the Cisco Dam contains the standard license article contained in all UPPCO licenses regarding invasive species.

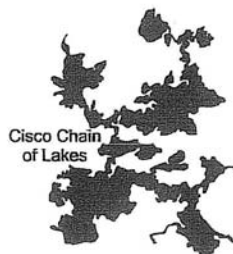
Page 17 of the Application states the Cisco Chain Riparian Owners Association (CCROA) have voluntarily surveyed for and treated invasive aquatic plant species prior to license issuance in 2003. WDNR notes that although standard for all UPPCO licenses, Article 411 specifically implements the intent of the Settlement (Section 4.5) regarding nuisance plant control. We commend CCROA for its voluntary efforts, but recognize that volunteer efforts may cease or be otherwise interrupted at any time, depending on the needs and interests of the volunteers. As such, a need exists to preserve the monitoring requirements of Article 411 through a legally enforceable framework, similar to that established through the FERC license, prior to the transfer of ownership. A framework that meets the intent of the Settlement is necessary before we can support removal of the dam from the license or transfer of ownership.

Response:

A legally enforceable framework is not necessary. As explained in the application, the Bond Falls Implementation Team has been funding numerous grants for invasive species control on lakes within the Ontonagon Watershed regardless of whether or not they reside within the project boundary of the Bond Falls Hydroelectric Project. In addition, the Bond Falls Implementation Team has funded invasive species control on Clearwater Lake of the Cisco Chain that is not within the Bond Falls Hydroelectric Project Boundary.

In addition, several representatives of the Bond Falls Implementation Team have recommended grant proposals that have been accepted and approved by the team. As a result, through the Bond Falls Implementation Team there exists a very practical method for funding invasive species monitoring and control on the Cisco Chain even though it will no longer exist within the Bond Falls Hydroelectric Project. If the MDNR feels it is necessary for the resource for invasive species monitoring and control on the Cisco Chain, it can apply to the Bond Falls Implementation Team (which it is a member of) for a grant to complete the work each year.

Continuing to fund invasive species work through the Bond Falls Implementation Team on a grant basis is the exact same source of funding that currently funds invasive species work within the project boundary. Both are funded by the Mitigation Enhancement Fund established by the Settlement Agreement.



Cisco Chain Riparian Owners Association
Post Office Box 687
Watersmeet, MI 49969-0687

In October 2001 the Cisco Chain Riparian Owners Association (CCROA) received a draft of the proposed license renewal application for the Bond Falls Generating System from the Upper Peninsula Power Company (UPPCO). In the draft it was noted that the Power Company intended to sell the Cisco Dam. This information was passed on to our membership and generated a great deal of interest. It was apparent to our Board of Directors that many of our members had an interest in determining if purchasing the Dam was feasible.

The Board decided to hire Ayers Associates from Eau Claire, Wisconsin to educate our officers on the operation of the Dam and on the responsibilities that we would have if we were to buy it. We received a report on October 19, 2001 in which most of our questions were answered.

We maintained contact with UPPCO and discussed potential sale and purchase from time-to-time.

In early 2011 we were contacted by UPPCO representatives and told that UPPCO was now ready to discuss the sale and purchase of the Dam. During the intervening years, UPPCO had performed major maintenance, so we again asked Ayers Associates to review the Dam. Their information was summarized in a letter dated May 31, 2011. The recommendations from Ayers were positive concerning the condition of the Dam. Ayers also assisted the CCROA Board in developing a Dam operating budget. This information was summarized in a report dated May 16, 2011.

One significant factor in Dam ownership is the availability of liability insurance. The Board asked Ayers to do an analysis of the hazards relating to a failure of the Dam. Ayers concluded that the water flow would be dissipated with minimal damage. We have also received a quotation for liability insurance from a well rated company for \$2 million of coverage.

The Cisco Chain Riparian Owners Association (CCROA) is a 501(c)(3) non-profit organization.

Application for License Amendment – Cisco Development

Response to Comments of Cisco Chain Riparian Owners Association
April 9, 2012

Comments Noted

No Comments Were Received From the Keweenaw Bay Indian Community, the U.S. Fish and Wildlife Service, or the Michigan Hydro Relicensing Coalition.

Document Content(s)

20120614 FERC Bond Falls Amendment Cisco.PDF.....1-1

20120531 Cisco Application.PDF.....2-83