

Summary Document

Wisconsin Public Service and Upper Peninsula Power Company Development Plans in the Upper Peninsula of Michigan

Bond Falls, Victoria, Prickett, AuTrain, Boney Falls and Cataract

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The Upper Peninsula Power Company (UPPCo) and its parent company, Wisconsin Public Service (WPS), have plans to liquidate the land surrounding six flowages in the Upper Peninsula of Michigan. Negotiations for the sale are taking place with Naterra Land Company (previously Taylor Investment Corporation), and Naterra has proposed a plan for extensive residential development near these flowages. Development outlines have been created for the nonproject lands of the Bond Falls, Victoria, and Prickett (all within the Ottawa National Forest), and AuTrain, Boney Falls, and Cataract areas, with Bond Falls, Boney Falls, and Cataract expected to be the first of these development projects.

UPPCo land that is within an average of approximately 400 – 500 feet from the shoreline of the Bond and Victoria flowages lies within the project area boundary of the hydroelectric Project No. 1864 and is under the jurisdiction of the Federal Energy Regulatory Committee (FERC). All land not included in this zone is considered nonproject area, and Naterra and WPS have indicated to Michigan agencies that they can proceed with sale and development without FERC approval. Naterra has created an outline for the nonproject Bond Falls land, similar to the proposals for the other five flowages, that includes

- Subdivision of nonproject lands into individual lots for residential sale
- Individual access corridors and electric service across project lands to the shoreline as well as dock placements or winter storage. All reservoirs, other than Bond and Victoria, would also have individual viewing corridors.
- New or improved roads within the project area boundaries
- Stairs to the water within the project area boundary
- Private and common docks of up to 10 slips on project area lands for nearby land owners
- Access corridors and electric service across project area lands to the shoreline with common docks of up to 10 slips for back lots as long as common ownership access lots exist adjacent to project area lands (known as keyholing)
- Overhead power lines across project area lands
- Allowing for marinas (pending FERC approval)
- Access roads across US Forest Service lands for new subdivisions

In addition to these objectives from the development outline, the proposed nonexclusive license agreement between UPPCo and Naterra and their eventual successors for the Bond Flowage development in Haight and Interior Townships includes provisions that would allow for creating pathways, clearing brush and removing dead or diseased trees, and restricting public access to project area lands by prohibiting public activities, such as fishing, within 100 feet of a private pier, even though the pier would be located on UPPCO Project Area lands.

Many of these proposed developments will take place within or will directly impact the project area and appear to be in direct conflict with the FERC Settlement Agreement and the final FERC License which was issued after a period of extensive review and public input. The FERC licenses for the Bond and Victoria projects, specifically, call for a) management for old-growth forest characteristics within the buffer zone, the 200 foot strip that that lies along the shoreline inside the project area; b) a natural, undeveloped shoreline; c) protection for sensitive wildlife species—particularly the loon, osprey, bald eagle, and gray wolf—and their habitats, including limitation of human activity along portions of shoreline; and d) unrestricted public access to and on the

project area for uses such as fishing, hunting, sightseeing, birdwatching, and water access.

FERC license agreements for the remaining areas have many of the same objectives, though some of the proposed development activities are even more disrupting than on the Bond and Victoria flowages. The Prickett project (Hydro Project No. 2402), for example, would allow for view corridors across project lands, electric lifts, and invasive removal of submerged woody debris at depths up to eight feet. MDNR officials have strongly opposed this proposal, based on severe impact to the Prickett fishery, and the MDEQ is investigating whether this removal can be performed without a permit.

The FERC licenses for all of these projects were issued within the last decade. In 2000, at the time of issuance of the Settlement Agreement for Project No. 1864, Bond and Victoria, there was no mention of any possible sale or development of UPPCo's land holdings, and no public comment on this possible land use. In interview with a number of individuals involved in the licensing at that time, all have expressed great concern about this development proposal, and it was consensus among the Bond Falls Implementation Team (including the Forest Service, MDNR, US Fish and Wildlife Service, and the Michigan Hydro Relicensing Committee), as well as signatories to the agreement itself, that no one expected to see development of this degree within the 40 year license period. The Settlement Agreement of 2000, the Environmental Impact Statement, and the final License, issued in 2003, mandate that UPPCO maintain the shoreline and 200-foot Buffer Zone in a natural state without vegetative management, mainly to protect the resource and wildlife habitat and preserve opportunities for wilderness recreation. The public uses, including hunting and fishing, as well as the protected areas for non-game species such as loons, eagles and osprey, would be substantially compromised or restricted on the project lands if this development continues as proposed.

It appears that WPS, UPPCo, and Naterra are eager to complete the transaction without allowing time for FERC review. In talking with John Estep, chief of the Land Resources Branch at FERC, he stated on 12-20-05 that he had no knowledge of the planned development at Bond Falls. He acknowledged being contacted concerning request for a meeting in early January, but knew no specifics. License signatories and members of the Bond Falls Implementation Team revealed in conversation that they had been told by UPPCo and WPS that FERC approval is not required for the development project, as the development would not adversely impact the project area. This conflicts with information given to Joe Pietila, supervisor of Haight Township. WPS has approached the Haight Board, informing them that the township ordinance preventing keyhole (back lot) access to the shoreline has no determination on the development plans, as FERC has already approved the proposal. Pietila also stated that the Township of Haight has not taken a position of support for the development of the Bond Flowage.

This entire project is believed to be on a short timeline, and there are reports that Naterra is in the process of purchasing lands on the north and west shores of Bond as well as lands around Boney Falls and Cataract in the last week of December, 2005. The rest of the land sale would take place over the next one to two years. With the licenses for these hydroelectric projects, WPS is allowed to use water and land resources for profit, as long as public rights and natural resources are protected according to the FERC jurisdiction and agreement. WPS, in attempting to maximize short term profits, appears to effectively violate a number of conditions in the FERC agreement, and seems to be trying to move at a pace that will allow them to sidestep FERC review and public comment. The proposed activities within the Project Boundary appear to be in conflict with the terms and conditions of the FERC licenses, and would breach the goals of

resource protection and public use on project lands. For this reason, many individuals who were involved with the licensing process believe that another public comment period should be implemented before any development activity takes place.

Contacts:

The following individuals were interviewed in the week of 12-19-05, and information from these conversations contributed to this summary.

John Estep, FERC, Chief, Land Resources Branch. (202) 502-6014.

Bob Evans, US Forest Service, Watersmeet. (906) 358-4551. *

Attorney Jim Schram, Michigan Hydro Relicensing Coalition. (231) 869-5487. *

Bill Deephouse, MDNR Fisheries Biologist, retired. (906) 482-6607. *

Bob Martini, Wisconsin DNR. (715) 365-8969. *

Joe Pietila, Haight Township Supervisor. (906) 827-3194. (906) 827-3800.

Tom Church, Watersmeet Township Trustee. (906) 358-4171.

The following contacts have not been interviewed, but are knowledgeable of this proposal and its effects.

George Madison, MDNR Fisheries Biologist. (906) 353-6651.

Jessica Mistak, MDNR FERC coordinator. (906) 249-1611, ext. 308

* Denotes a signatory to the FERC Settlement Agreement for Project No. 1864.