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UNITED STATES FEDERAL ENERGY REGULATORY COMMISSION

Re: Upper Peninsula Power Company's	)	Project No. 1864, Bond Falls; 2402, Prickett;
Applications for Approval of Non-Project	)	10856, AuTrain; 2056, Escanaba River Dam
Uses of Project Lands and	)	#4, Boney Falls; and 10854, Cataract.
Approval of Shoreline Management	)	
Plans for the Upper Peninsula of Michigan	)	NORTHWOOD ALLIANCE'S MOTION
	)	TO INTERVENE AND PROTEST
	)	

I. INTRODUCTION

In accordance with Rule 214 of the Federal Energy Regulatory Commission's ("FERC") Rules of Practice and Procedure, 18 C.F.R. § 385.214, Northwood Alliance hereby moves to intervene in the Upper Peninsula Power Company's ("UPPCO") application for non-project uses of project lands, and supporting Shoreline Management Plans, for the Bond Falls; Prickett; AuTrain; Escanaba River Dam #4, Boney Falls; and Cataract Projects located in the Upper Peninsula of Michigan.

II. STATEMENT OF INTEREST AND GROUNDS FOR INTERVENTION

Northwood Alliance is a non-profit organization based in Wisconsin, with members in northern Wisconsin and Upper Michigan. Northwood Alliance has been actively involved in the planning process since UPPCO announced its intent to sell off non-project lands and issue leases for non-project uses of project lands. Northwood Alliance's members have regularly attended meetings, issued comments and requested information from both UPPCO and FERC concerning UPPCO's proposals, and organized public involvement. Ensuring that the provisions in UPPCO's licenses that assure public access and management for ecological values and water quality are enforced is currently Northwood Alliance's top organizational priority. As a group dedicated to the protection and preservation of the region's environmental quality and way of life, Northwood Alliance's intervention in this matter is in the public interest as required by 18 C.F.R. § 385.214(b)(2)(iii).

Northwood Alliance represents a wide array of interests that would be directly affected by the approval of UPPCO's proposed non-project uses of project lands. *See* 18 C.F.R. § 385.214(b)(2)(ii). Members of Northwood Alliance regularly and consistently use the project areas at issue, and plan to continue to use these areas, for recreational and environmental purposes, such as paddling, fishing, hunting, hiking, and wildlife viewing. The approval of UPPCO's request would negatively impair fish and wildlife in the area, substantially diminish the aesthetics of the project areas, and decrease public access to the project area lands, all of which would directly and negatively affect Northwood Alliance's members' use and enjoyment of these areas.

III. STATEMENT OF POSITION AND PROTEST

Through intervention, Northwood Alliance seeks full compliance with the terms of UPPCO's license that provide for environmental protection and public access, both of which would be compromised by UPPCO's proposal currently before FERC. As set forth in our February 17, 2006, letters to FERC, Northwood Alliance first seeks a detailed environmental impact statement ("EIS"), as required by the National Environmental Policy Act ("NEPA"), and consultation with the United States Fish and Wildlife Service, as required by the Endangered Species Act, prior to FERC's approval of any non-project uses on project lands. Northwood Alliance also seeks to prevent any irreversible commitments of resources or adverse environmental harm to the project areas prior to completion of the mandatory procedures.

Northwood Alliance protests approval of the proposed non-project uses of project lands for these five projects based on the largely deficient Shoreline Management Plans that are currently before FERC. The process used by UPPCO to develop these plans was inadequate in two respects: lack of meaningful public input and lack of detailed environmental analysis.

To gather public input, UPPCO held **several** focus group meetings. UPPCO did not allow the general public to attend or observe these meetings. The focus group members primarily represented government and economic interests. During the meetings, issues raised were not voted on nor was any type of consensus sought. This process is a far cry from the NEPA process, did not allow the public to be fully and meaningfully engaged, and did not allow all concerned parties and members of the public to voice their concerns and ask relevant questions. The resulting plans were completed with inadequate public involvement and support.

The environmental studies and analysis conducted on each project area were also inadequate. These studies were conducted over a very short time span and failed to address potential impacts, especially those accumulating by consistent human intrusion on the project lands from adjacent small lot development. No development of this scale was hinted to or allowed for in the recent relicensing process.

FERC must now prepare its own EIS and consult with the United States Fish and Wildlife Service prior to approving the proposed non-project uses and prior to allowing any of the proposed non-project uses to proceed. The proposed use of the project lands threaten environmental, recreational, and public interests and require full public involvement and environmental analysis.

Substantively, many of the proposed uses of project lands are also not consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the five projects, as required by the Standard Land Use Article found within each of the five licenses. In addition, the cumulative impacts of the now proposed small-lot residential development within the adjacent non-project lands will lead to additional adverse environmental impacts. The proposed shoreline development would be in conflict with key objectives within each license. Northwood Alliance protests FERC approval of any activities that would conflict with current license agreements or otherwise allow environmental impacts and degradation not contemplated when the licenses were initially approved.

## V. CONCLUSION

Northwood Alliance respectfully requests that FERC grants its motion to intervene and deny the proposed applications and SMPs pending meaningful public involvement, adequate environmental analysis, and full compliance with existing license agreements.

Dated this 29<sup>th</sup> day of December, 2007.

## VI. CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

	12-29-07
Joseph Hovel, NWA	Date

Respectfully submitted,

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RE: Comments on UPPCO's Final Shoreline Management Plan; Bond Falls Project #1863-083; Prickett Project #2402

To Whom It May Concern:

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

In general, the resource protection plans outlined in the SMP fall short of including measures necessary to maintain the resources of the Project Area. With new threats included in the SMP, such as path and view corridor clearing, docks, increased water traffic, and increases in human and domestic animal activity, all plans for resource protection must be correspondingly updated in response to these new pressures.

The existing Water Quality Plan (6.1) fails to address new anthropogenic threats such as household chemical runoff, greatly increased watercraft traffic, and potential contamination by spilled fertilizers, fuel, or pesticides. Temperature and dissolved oxygen only provide an incomplete evaluation of water quality without including analyses such as dissolved nitrogen and phosphorous; other sources of contamination may escape detection in this limited monitoring. The Plan must be revised to also include a control strategy in the instance of impaired water quality.

Similarly, the Nuisance Control Plan (6.3) must be updated with more proactive measures to address the increased risk of terrestrial and aquatic invasive plant transmission by greater human activity. In addition to plant threats outlined in the plan, animal invasives such as the emerald ash borer should be included, and a comprehensive monitoring plan developed. Strong emphasis should be placed on prevention of invasives over control, and control approaches should be in place to handle nuisance species where they occur.

The Wildlife and Land Management Plan (6.5) must be rewritten to include the effects on wildlife of developments and increased human activity. The existing objective "minimizes human use of the shoreline", while the proposed uses include developments such as dock construction and increases in aquatic and terrestrial traffic in the habitat areas of sensitive species. Wildlife such as eagles, osprey, loons, and wolves stand to be threatened by development, human activity, and habitat fragmentation. Habitat fragmentation, path/view corridor formation, and removal of vegetation also contradict the goals of Old Growth management. Any human activity that involves the fragmentation or disruption of the forest system violates the management plan outlined in the FERC license.

The current Plan for Threatened and Endangered Species Management (6.6) does not sufficiently address the impact of proposed developments on the sensitive species of the project areas. Identification of nesting areas for bald eagles and loons is of no value without insuring protection from human activity and disturbance and/or development such as dock placement. Terrestrial human activity most adversely affects osprey and eagle habitat, and aquatic and boat traffic has a demonstrated deleterious effect on loon nesting success. Any new road construction threatens to impact grey wolf populations in the area. Consistent use of roads or new construction violates the current license that calls for closure of any roads constructed for temporary forestry uses. In order to adequately ensure the protection of these species, buffers of no activity must be established around nesting areas for identified threatened or endangered species.

The original FERC license includes the objective to reduce human disturbance and activity. Revisions outlined for the Recreation Plan (6.7) involve updating existing and creating new recreation areas, potentially violating Old Growth management, compromising wildlife habitat, and interfering with natural aesthetics of the shoreline. The overall goal of the Recreation Plan should focus on consolidating activity and reducing or eliminating new development.

The past three years of moderate to severe drought conditions in the Upper Peninsula have resulted in extremely low reservoir and stream water levels. The future holds potential for continuing drought. The conservation values of the reservoir license agreements may be severely breached if another interest group—land owners and dock users—begins to demand flowage levels optimal for recreational use. With decreased water availability, this may conflict with the flow levels required for power generation and to insure viable habitat in the natural riverbed. Additionally, any potential for riverbed restoration in the event that UPPCO no longer wishes to generate power would be very unlikely when landowners have interest in maintaining a flowage. The original FERC license was written with no intention of involving adjoining lot owners in determining the best conservation plan.

NWA has serious concern with the depth and extent to which the “resource inventory” was conducted by an UPPCO-contracted firm. The E-Pro studies mentioned in 7.1 did not follow thorough protocol for data collection, as recommended by the resource agencies, and the reports only generally mentioned aquatic habitats and terrestrial vegetation patterns. These reports do not include specifics of shoreline characteristics, and are not appropriate with which to evaluate development impacts of dock placement, clearing, or concentrated human activity.

Each of the impoundments on which development is proposed is connected to an extensive waterway, in some cases involving Wild and Scenic River designations. Any deterioration in water quality in any flowage may affect Wild and Scenic areas, and are thus under the jurisdiction of the Ottawa National Forest as the monitoring body for these designated areas. The Ottawa National Forest must be alerted to any proposals that could result in declining water quality.

With the absence of a fully developed Environmental Impact Statement, there are no grounds to predict “minor” adverse affects on aquatic or terrestrial wildlife along the

shoreline. Predictions on ability to deal with invasive organisms are also speculative, without the analysis necessary to conclude possible extent or characteristic of potential invasions.

Again, without an extensive EIS developed for the area, there are no means to accurately predict the effects on fish or waterfowl of the developments described in 9.3. To suggest that docks may be utilized by fish for shelter and spawning in an area of such high human and domestic animal activity is far fetched, at best. Also, the 0.15% estimate for wetland impact (9.4) appears to incorporate only the direct impact from dock and access construction, not including the potential indirect impacts from erosion or contaminated runoff.

As stated above, NWA believes that the information available from the limited resource survey is not sufficient to make statements on the levels of impact on Threatened or Endangered species (TES) in the area of proposed development (9.5). In addition to TES activity along the shoreline, any assessment must include those species that may nest or den away from the Project area or proposed development, but utilize the shoreline as a necessary resource or include shoreline areas in their territories. For many of these species, unhindered access to these areas is vital to their success. In addition to identification of nesting/den areas, areas of high traffic or roosting areas should likewise be identified and fully protected.

Compared to the existing shoreline character at the flowages, preserved with Old Growth management and as one of the goals in the FERC license, it is impossible to assert how "minor" the impact of any dock construction would be on shoreline aesthetics (9.7). Proposed dock and pathway construction along with great increases in boat traffic have the potential to greatly alter the aesthetics of the shoreline and disturb the existing tranquility of the area. This conflicts with the license objective of protecting natural shorelines.

The socioeconomic benefits listed (9.9) represent vague speculation, and this type of economic activity has been time tested across the country and shown to fall short of long term economic benefits. Expansion of a local economy from development has been shown to fail to sustain itself, and over time the costs of municipal services required by increased development outweigh increases in revenue from the tax base.

In short, the Northwood Alliance has numerous severe concerns with many points of UPPCO's Shoreline Management Plan. In order to comply with NEPA, a complete Environmental Impact Statement must be prepared to assess the direct, indirect and cumulative effects of implementation of the SMP. Environmental and recreational effects of proposed developments for non project uses on project lands are unclear with the information from the E-Pro resource survey, and appear to conflict with the objectives for resource maintenance outlined in the FERC licenses. Proposals in the present SMP have potential to deleteriously affect the environmental, aesthetic, and recreational integrity of the flowages, and should be revised to avoid conflict with the existing FERC license and the expectations of the public for this excellent resource to be available to all.

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