

Northwood Alliance, Inc.
6063 Baker Lake Rd.
Conover, WI 54519

Kimberly D Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

September 21, 2008

RE: Comments protesting the Environmental Assessment dated 08/28/08 Prickett
Hydroelectric Project No 2402

Dear Ms Bose:

As a citizens group concerned about the environment and quality of life of the Upper Peninsula, the Northwood Alliance (NWA) soundly rejects the recent Environmental Assessment (EA) finding of “no-significant impact” on the quality of the human environment. We never advocated the Shoreline Management Plan initiative, as we believed from the beginning that creation of the Plan would preclude development. The eagerness of FERC and development interests to alter the existing license, which in itself stood as a worthy plan to protect the project land shorelines, is reflected in the conclusion that proposed development will not detrimentally affect this region.

FERC staff makes an erroneous statement in the EA, that “The SMP’s shoreline classifications, as described in Section IV.1 of this EA were developed with extensive input by the interested Federal and state Resource Agencies and others with the intention of protecting the environmental resource values of the projects shoreline.” At least in this EA, FERC staff has chosen to omit the words “collaboration” and “in consultation” to explain the agency’s involvement in the development of UPPCO’s proposed shoreline classifications. We believe that the agencies have made it very clear in their joint comments to the SMPs and responses to the Au Train, Cataract and Boney Falls EA’s that they are in opposition to UPPCO’s proposed non-project uses of the project lands because they do not protect the environmental resource values of the project shorelines. The agencies have repeatedly stated that these classifications “are solely the product of UPPCO.”

In this EA, FERC has even omitted information from the resource agencies and members of the public that counters UPPCO’s claim that this SMP requiring amendments to the Article 414 Land Use Plan is “consistent with the purposes of protecting and enhancing the scenic, recreational and other environmental values of the project.” But, the proposed SMP and desired amendments were crafted to allow private uses of the project lands to substantially increase the value of UPPCO’s adjoining non-project lands for a development.

UPPCO now looks for FERC approval for the development of a number of pathways through the buffer zone leading to an unknown number of private docks along the shoreline. These paths are not consistent with FERC’s original purpose requiring the 200-foot buffer zone at the shoreline. FERC also required a no-tree cutting zone around the project impoundment (even single tree selection) to protect aesthetic and environmental qualities for

which the Sturgeon Wild and Scenic River was created. Should all faith in old license requirements be moot over a perverted development scheme?

In most resource sections of the EA, FERC makes statements to indicate that the full extent of impacts to that resource is not really known, because UPPCO has not provided any details regarding the planned development on the adjacent non-project lands. If that is true, it is not possible for FERC to comply with NEPA and prepare an adequate EA or EIS, since there is no way to judge environmental effects. Further, the finding of “no significant impact” is not justifiable, since the significance of impacts cannot be measured without this information.

FERC states that there will be negative impacts as a result of implementing the sought-after actions. The authors acknowledge that implementing the SMP will result in the gradual degradation of the flowage. That being the case, it is illogical for FERC to determine that environmental impacts would not be significant. Once again the Standard Land Use Article in the Prickett FERC license states that any proposed use and occupancy of project lands must be “consistent with the purpose of protecting and enhancing the scenic, recreational, and environmental values of the project”. This language is clear. FERC’s own statements in the EA concerning potential impacts of the SMP make it very apparent that this standard cannot be achieved. In fact, there is nothing in the SMP to indicate that the SMP would do anything to improve or enhance the natural resources; the overwhelming evidence is that the proposal will cause every aspect of the natural resources at the project to degrade. The NEPA process requires that the FERC either reject the SMP as inconsistent with the license, or begin preparation of an EIS to more thoroughly examine potential negative effects from implementation. NWA suggests an outright rejection as realistic measure to save the American people any further expense.

The EA allows excessive unwarranted authority to UPPCO in determining appropriate use of FERC-project lands. On p. 13, the EA states: “Any such determination (as to what uses are appropriate) lies with the sole and uncontested discretion of UPPCO”. FERC must live up to its role as regulator and maintain tight oversight of activities proposed on project lands, as UPPCO is in no position to properly protect the values of this project for the public.

The EA states that there are Wild and Scenic River segments both above and below Prickett Reservoir, but is silent about potential negative impacts to these rivers and their resources as a result of implementing the SMP. The Wild and Scenic Rivers Act requires that a Section 7 determination be made for any federal permit or action that could potentially degrade a designated Wild/Scenic River. The FERC must coordinate with the agency that administers these river segments (the Ottawa National Forest) to complete such a determination, or they fail to comply with federal law.

Effects to adjoining wilderness areas must receive similar attention and scrutiny. Recently mining exploration permits were granted for this vicinity. It is incomprehensible that FERC can realistically determine no significant impact to these areas by adjoining mining and residential development. We can only speculate on the long term cumulative effects from mining and residential development adjoining a protected, valuable wilderness area.

The No Action alternative in this EA is seriously flawed, and is not a No Action alternative at all. The alternative in the EA assumes that future development of the non-

project lands would continue, as permitted by UPPCO on a case-by-case basis. The No Action Alternative should have been based on the assumption that no action would occur (no non-project use of project lands), not continued development. Prickett flowage currently has an undeveloped shoreline, with no docks (except at the public boat landing) or other shoreline developments. A true No Action should be based upon no development of the project lands; the only actions that would occur would involve continued adherence to the existing FERC license as it currently is written. Failure to consider such a true No Action alternative is a violation of NEPA, and yet FERC has not considered it.

The EA wrongly assumes that development of the Prickett shoreline is “inevitable”, and that shoreline development is causing the demand for amenities such as docks. This is not true. It is very clear from reading the SMP that the amenities such as docks are causing the demand for shoreline development (not the reverse). Naterra, the developer who has purchased non-project lands from UPPCO at other locations, with the intent of marketing lots for residential developments, has stated in a lawsuit against UPPCO that they cannot sell retail lots adjacent to the project lands, unless there are docks on the project lands. So, the assumption in the EA that development is inevitable and that such development will lead to a demand for docks is not at all accurate.

The EA states “the addition of boat slips/docks is the only component of the SMP that would have the potential to affect water quality”. It is inconceivable that the FERC dismisses other activities that could easily lead to water quality degradation, such as erosion and sedimentation due to construction of trails and view corridors, use of motorized vehicles within the project Buffer Zone, and motorized boating activity itself, especially the disturbance around the docks and leakage and discharge of petroleum-based products into the water, which is unavoidable with the use of outboard motors.

The EA dismisses these concerns by saying that “boating may take some years to become fully established on the reservoir”. This statement allows one to believe that FERC feels degradation of water quality is allowed, as long as it is a gradual process. This line of reasoning is unacceptable, and represents a violation of the law. FERC has no way of determining at what rate boating may become established, because UPPCO has not provided any details to FERC on their development plans!

UPPCO does not currently permit use of motorized vehicles within the Buffer Zone adjacent to the shoreline. The SMP appears to open up much of this area to motorized use. This increased use of motor vehicles within the Buffer Zone will lead to resource degradation, is inconsistent with the purpose of establishing this zone in the current license, and should NOT be permitted. FERC should have regulatory authority to prohibit this, and save legal expense from citizens groups and the public, who are bound to challenge a loose ruling.

This EA simply accepts UPPCO’s twisted reasoning for determining the percentage of the project shoreline that is in a given zoning class. UPPCO, by their own admission, measured not only the shoreline distance when creating these percentages, they measured “every location where the reservoir’s surface water came into contact with project land” as shoreline. This means that all coves, oxbows, islands and similar areas were counted as shoreline. This is highly inaccurate and flawed approach, since these areas are quite different from the main shoreline of the reservoir, and cannot be managed in the same way. The result of using this twisted line of reasoning is to greatly

exaggerate the percentage of shoreline UPPCO claims is in the “Conservation” zones, and decrease the amount in the other two zones. In result, we are presented with a distorted picture of what really is being proposed for the project shoreline.

Further, the entire zoning system used by UPPCO is misleading, because all of the zoning classifications (including the two so-called Conservation zones) would allow for MORE development than is currently allowed on any part of the shoreline, under the existing FERC license. In essence there are no real conservation areas proposed. In order to protect sensitive wildlife and plant species and their habitats, project lands must be set aside for conservation purposes. True conservation areas would allow no use of the project lands.

FERC cites increasing demand for water-based recreational activity as a reason to allow the development of these non-project lands. FERC completely ignores the fact that many recreational activities require lakes with undeveloped shorelines, such as Prickett’s current status. If this SMP is approved, it will simply lead to the degradation of one of the remaining few undeveloped flowages in our area, making it increasingly difficult for recreationists to obtain a quality experience.

In closing, we are deeply disappointed in the quality of this EA. The members of Northwood Alliance Inc. as well as the general public deserve better. FERC has ignored the wishes of many excellent comments thus far in the public process, and the agency must regroup and consider its obligation to the general public. In fact, FERC admits in several sections that it is not possible to adequately assess the significance of effects, as they do not have any information about the proposed development from the licensee, which reasonably concludes that effects are uncertain, and may be significant. This would lead to the preparation of an EIS, which is the next appropriate step in the NEPA process when environmental effects are uncertain. This project has a massive footprint that threatens to impact both human and ecological environments and absolutely demands appropriate scientific studies through due NEPA process before impending impacts may be assessed.

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