

UNITED STATES OF AMERICA 110 FERC ¶62,165  
FEDERAL ENERGY REGULATORY COMMISSION

Upper Peninsula Power Company

Project No. 1864-034

ORDER APPROVING BUFFER ZONE PLAN PURSUANT TO ARTICLE 413

(Issued February 23, 2005)

On August 20, 2004, the Upper Peninsula Power Company (licensee) filed a Buffer Zone Plan pursuant to article 413 of the Order Approving Settlement and Issuing New License, issued August 20, 2003 for the Bond Falls Project.<sup>1</sup> The Bond Falls Project is located on the West Branch and South Branch of the Ontonagon River in Ontonagon and Gogebic Counties, Michigan.

BACKGROUND

Article 413 requires the licensee to file, for Commission approval, a Buffer Zone Plan (Plan) for all lands owned by the licensee and located within the Bond Falls Project (which is comprised of four developments). The plan shall include a variable width buffer zone with an average width of 200 feet adjacent to the project impoundments. The principle management objective of the plan is to achieve old growth forest characteristics. The plan shall be consistent with the Threatened and Endangered Species Protection and Enhancement Plan (TESPE) for the project (Article 415). The licensee shall prepare the plan in consultation with the U.S. Forest Service (FS) and the other members of the Bond Falls Project Implementation Team established by the license.

DESCRIPTION OF PLAN

In the Plan, the licensee describes the existing impoundment size, land acreage, and vegetation characteristics at the Bond Falls, Victoria, Cisco, and Bergland Developments. The licensee commits to provide the required variable width buffer zone with an average width of 200 feet on lands that it owns adjacent to the project impoundments. Within the buffer zone area the plan establishes techniques for:

- 1.) vegetation management;
- 2.) timber stand improvement;
- 3.) even-age tree management;

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<sup>1</sup> 104 FERC ¶ 62,135.

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- 4.) insect and disease control;
- 5.) fire control;
- 6.) threatened and endangered species protection;
- 7.) wildlife management;
- 8.) wetland management and;
- 9.) recreation management.

The Plan was developed to be consistent with other project management plans such as TESPE. The Plan states that the “creation of a buffer zone is also intended to protect and enhance habitat as a part of the Wildlife and Land Management Plan and the TESPE Plan.”

## CONSULTATION

By letter dated June 28, 2004, the licensee sent a draft of the plan to the appropriate resource agencies and the Michigan Hydro Relicensing Coalition (MHRC). The licensee received written comments on the plan from the FS, Michigan Department of Natural Resources (MDNR), U.S. Fish and Wildlife Service (FWS) and the MHRC dated July 22, July 28, July 29 and July 11, 2004, respectively. MDNR, FS and FWS had questions regarding three sections of the plan: (1) Section 4.0 Management Techniques Within the Buffer Zone; (2) Section 4.2 Vegetation Management and; (3) Section 6.0 Implementation Schedule. The FS and MDNR filed identical letters.

Comments on Sections 4.0 and 4.2: Specifically, the FS, MDNR and FWS stated that Section 4.0 and 4.2 were not emphasizing the intent of the plan which is to achieve old growth forest conditions around the project impoundments. Instead, emphasis appeared to be on “aesthetic management” using such techniques as selective tree clearing and clean-up for visual purposes. The agencies agreed, however, that in designated recreation areas and near operational facilities such visual emphasis would be appropriate. The agencies did not agree with the Section’s emphasis on removing old and dead trees and thinning of trees to achieve a desired spacing. The agencies requested the sections be written to clarify the management intentions. In the plan the licensee agreed and stated in its response, included in the plan, it had amended the sections accordingly.

Comments on Section 6.0: The agencies requested the licensee amend the implementation schedule to install signs to prohibit camping on islands to protect the loons and their nesting habitat. The licensee responded in the plan stating camping on islands is presently restricted to designated camping areas and it would install the signs after the Commission approves the plan.

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Response to MHRC's comments on the draft plan: The licensee states that MHRC "is an ex-officio advisory member of the Bond Falls Implementation Team. As an ex-officio advisory member, the MHRC was included to comment on the Draft Buffer Zone Plan." The licensee states it will consider comments and suggestions from MHRC, however, because of its ex-officio role it is not required to address or adopt its suggestions for the plan.

Commission staff has reviewed the MHRC letter and has concluded that, with the exception of one comment, MHRC raises the same concerns of MDNR, FS and FWS. Unlike the MDNR, FS, and FWS, the MHRC questions why the buffer zone extends below the Victoria Dam along the bypassed reach but doesn't below the Bond Falls Development. MHRC identifies certain downstream areas at the Bond Falls Development that it would like included in the buffer zone area, specifically along Copper Flume and Roseland Creek. The intent of Article 413 was to establish a buffer zone along the impoundments. The article states "the plan shall include a variable width buffer zone with an average width of 200 feet, adjacent to the project impoundments". Extending the buffer to include land downstream of the dams was not required by the article. Article 413 also states the buffer zone land shall be owned by the licensee and located within the project boundary. While not required, the licensee has included some buffer zone land downstream of the Victoria Development where it owns land within the project boundary.

## CONCLUSION

The licensee adequately addressed the comments by interested parties in the final Plan. The Plan, filed pursuant to article 413, should provide for enhanced protection of a 200-foot-wide strip of licensee-owned land surrounding the project impoundments. The plan would also compliment other project land-based plans such as the Wildlife and Land Management Plan and the TESPE Plan by providing for increased protection and enhancement of habitat. This plan should be approved and made a part of the license.

### The Director orders:

(A) The Buffer Zone Plan, filed August 20, 2004, pursuant to article 413 of the Order Approving Settlement and Issuing New License, issued August 20, 2003 for the Bond Falls Project, is approved.

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(B) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

John E. Estep  
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and Compliance