



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF NATURAL RESOURCES
LANSING



DANIEL EICHINGER
DIRECTOR

July 9, 2020

Mr. Jason Kreuzscher
Renewable World Energies, LLC
100 State Street
PO Box 264
Neshkoro, Wisconsin 54960

**RE: AU TRAIN HYDROELECTRIC PROJECT – DRAFT LICENSE SURRENDER
APPLICATION (P-10856)**

Dear Mr. Kreuzscher,

Thank you for your consultation request on behalf of Renewable World Energies, LLC (RWE) for the surrender of the Au Train Dam hydropower generation license. The Department of Environment, Great Lakes, and Energy (EGLE), and Department of Natural Resources (DNR) have reviewed your draft license surrender application. While we are filing separate comment letters, both EGLE and DNR are in agreement on the issues raised therein.

As an overarching concern, we aim to ensure that safety deficiencies of this project are not passed to the State or another entity at the conclusion of the surrender process. For more than a decade, the Federal Energy Regulatory Commission (FERC) has been aware of significant safety issues yet action has been delayed such that not only one, but two licensees (Upper Peninsula Power Company and now RWE) have not adequately addressed measures needed to protect human life, infrastructure, and the environment.

If any remaining dam structures are to be left in place, concerns related to dam safety, run-of-river flows, and fish passage must be met by RWE prior to license surrender. The project has several noted and long-standing dam safety issues that must be addressed and will have continued maintenance and repair expenses into the future as long as the dam remains in place. There are migratory and highly desirable fish species that would benefit from removal of the project's dams. Improving access for trout species will lead to a more robust coldwater fishery both upstream and downstream of the dams. Fish passage will also benefit freshwater mussel populations.

For hydropower projects where a dam or appurtenances (e.g., penstock, powerhouse, substation) are left in place that may significantly affect public resources, assurances must be provided that another authority is able to take over regulatory responsibilities (see [FERC's Decommissioning Policy Statement](#)). While the provided addendum to the Purchase Agreement for the Au Train Basin and Surrounding Land indicates that the Purchaser will become the owner of the dams on the property and those dams will be subject to safety regulations and other requirements of Part 315, there is still the question of whether sufficient resources exist for long-term management of the dam. We recommend that a copy of the long-term maintenance and operation plan, including known financial obligations, be provided to the Purchaser prior to transfer of project assets. The Purchaser should acknowledge that they not only understand the regulatory responsibilities associated with dam ownership, but also the financial obligations.

Environmental Assessment

Because RWE failed to conduct meaningful initial consultation with State agencies regarding the surrender filing and anticipated studies, the DNR is making RWE aware of these requests now. The DNR recommends that RWE provide the following environmental analyses, studies, and information as part of their FERC hydropower dam surrender proposal, with emphasis on effects associated with RWE's current proposal and with dams removed, and measures to mitigate environmental impacts – this information is needed for the State to fully evaluate potential impacts associated with the surrender of the Au Train license:

- Schedule for Surrender Process – including timeline for conducting studies and agency response to draft study plans and study results
- Sediments- including potential for shoreline or riverbank erosion, erosion control measures during construction activities, and evaluation of impacts of potential sediment release (including contaminated sediments) and sediment removal
- Water Quality- including evaluation of impacts to water quality and water supply
- Aquatic Resources and Habitat- including proposal to remove or modify impediments to fish migration and passage, plan for recovery of stranded fish and mussels during any impoundment drawdown, and protection of organisms from harm caused by construction activities. It is the policy of DNR Fisheries Division to recommend dam operations that mimic natural riverine conditions and fish passage when dam repair or modification is proposed. DNR Fisheries Division also recommends removal of dams that serve little or no purpose and are likely to cause significant damage to public health, safety, welfare, property, and natural resources. Any changes to the dams associated with the Au Train project need to be accompanied by proposals and plans that fully evaluate dam removal, fish passage, and the ability to operate the dams to emulate natural riverine conditions.
- State and Federally Listed Fish and Wildlife Species- including plan for protection of State and Federally listed species during construction activities
- Historic and Archaeological Resources- including plan for protection of cultural and historic resources during construction activities
- Downstream Flood Conditions
- Public Recreation- including plan that discusses how existing recreation use and users will be affected and strategy for public notification of proposed measures that may affect recreational use or users
- Wetland and Terrestrial Resources
- Land Use and Aesthetics
- Groundwater Elevations
- Private Wells
- Public Infrastructure
- State and Local Bridges and Pipelines
- Ice- including evaluation of increased potential for downstream ice jams and ice scour
- Wildlife Resources- including assessment of how the Wildlife Area and Refuge will be affected by the proposed surrender plan (see [DNR Master Plan](#))
- Inundation Maps- maps need to show current water levels and water levels of both RWE's dam modification proposal and water levels with dams removed
- Invasive Species- including plans to address invasive plants that may colonize exposed impoundment areas
- Site Restoration- including plan for site restoration after completion of construction activities

Lastly, because it appears that RWE is far apart from EGLE and the DNR as to a desirable path forward for the Au Train project, we request the opportunity for meaningful input to ensure protection of public safety and natural resources prior to submission of a license surrender application.

Sincerely,



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