STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
WATER RESOURCE DIVISION

GRETCHEN WHITMER
GOVERNOR

PHILLIP D. ROOS
DIRECTOR

June 2, 2026

VIA EMAIL AND CERTIFIED MAIL

U.P. Hydro LLC
C/O Bill Harris, Jason Kreuscher
100 South State Street
Neshkoro, Wisconsin 54960

Bill Harris and Jason Kreuscher:

SUBJECT: Dam Owner Responsibility Letter/ Emergency Dam Safety Order
Site Name: Au Train Dam, Dam ID No. MI00152
Property Location: Au Train Township, Alger County, T45N, R20W, Section 6

According to a review of property records, the Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD) has determined that you are the owner of the Au Train Dam (Dam) in Au Train Township, Alger County, a dam with a height exceeding six (6) feet and impounding more than five (5) acres of water during the design storm. County parcel data lists U.P. Hydro LLC, a Subsidiary of Renewable World Energies, as the owner of parcels 001-206-001-10, 004-036-002-00, 001-231-004-00, and 001-231-005-00, where the Au Train Dam's north embankment, spillway, and south levee are located.

The Au Train Dam is regulated by EGLE under Part 315, Dam Safety, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.31501 *et seq*. We are writing to inform you of some of your company's key responsibilities regarding the dam, according to the provisions of Part 315. Part 315 and its administrative rules can be found online at Michigan.gov/DamSafety. We suggest you take time to review these documents.

This Dam has been assigned a **High Hazard Potential** rating by EGLE. This rating is an evaluation of the potential downstream consequences should the dam fail. It is not an evaluation of the Dam's condition. Section 31502 of Part 315 provides a more precise definition of the various hazard potential ratings. Listed below are some of the key items Part 315 requires the owner of a regulated dam:

- Notification to EGLE and affected public safety officials of any circumstances that may affect the safety of the dam (Section 31520).

- Submission of periodic inspection reports conducted by a licensed engineer evaluating the dam's structural condition and hydraulic adequacy (Section 31518).
- Obtaining permits from EGLE, as required, to accomplish repairs and alterations of the dam (Section 31509).

Owners of high hazard potential dams must submit dam safety inspection reports once every three (3) years. A visual inspection of the Au Train Dam was last completed by Federal Energy Regulatory Commission (FERC) staff in 2023 and the last in-depth Consultant Safety Inspection Report (CSIR) was completed in 2022. The FERC license to generate hydroelectricity at the Au Train Dam was terminated on November 29, 2025. On that date, regulatory jurisdiction of the Dam transferred to the State of Michigan. Given this transfer of regulatory authority, the first inspection report completed under the provisions of Part 315 will be required to be submitted to this office by December 31, 2027. You will receive a reminder letter via certified mail near the end of January each year the Dam is due for inspection. Inspection reports must be prepared, signed, and sealed by a professional engineer licensed in Michigan and must include:

1. An evaluation of the Dam's condition, spillway capacity, operational adequacy, and structural integrity.
2. A determination of whether deficiencies exist that could lead to the Dam's failure, including, but not limited to, potential seepage problems, internal erosion, surface erosion, embankment stability problems, and structural deterioration.
3. Recommendations for maintenance, repair, and alterations of a Dam as are necessary to eliminate any deficiencies.

A partial list of consulting engineers offering services in dam safety may be found on our website: Michigan.gov/DamSafety.

The engineer you engage in preparing the inspection report must obtain updated design discharges for your dam from the EGLE, WRD, Hydrologic Studies and Floodplain Management Unit. Your engineer can make the request on our website at: Michigan.gov/Hydrology.

The design flood flow to be used in evaluating the spillway capacity of the Dam is determined by the hazard potential rating. For high hazard potential dams not exceeding 40-feet in height, the design flood flow is the 200-year flood or the flood of record, whichever is greater. Please note that any discharge request, more than one (1) year old, must be reviewed and may be subject to revision.

The design flow, which this office will provide to your engineer, will typically be a peak inflow to the Dam's impoundment. In some cases, it may be possible to attenuate this flood peak by accounting for available flood storage in the impoundment. This flood routing is usually completed by computer modeling. Your engineer may make this determination or provide this office with the necessary information to complete the flood routing. We will provide a timely response so that the results can be included in the inspection report. If flood routing is required to demonstrate that the Dam has adequate spillway capacity, the report will not be considered complete without it.

To assist us with populating our dam inventory database, please provide any records you have for the dam, such as engineering drawings and design reports, construction as-builts, geotechnical or structural investigations, inspection reports, etc. that were not previously submitted to EGLE.

The 2022 CSIR, completed by Ayres Associates, identified several deficiencies which endanger the Dam. Specifically, the CSIR identified concerns with the following:

- South Levee internal erosion of embankment at surcharge pool
- South Levee internal erosion of foundation at surcharge pool
- Slope failure of South Levee during surcharged pool
- South Levee embankment static instability failure at normal pool
- South Levee embankment seepage-induced sloughing at normal pool
- North Dam embankment downstream slope seepage-induced sloughing during surcharge pool
- North Dam embankment downstream slope seepage-induced sloughing during surcharged pool
- North Dam internal erosion of embankment at normal pool
- North Dam internal erosion of embankment at surcharged pool
- North Dam internal erosion of foundation at normal pool
- North Dam internal erosion of foundation at surcharged pool

The 2022 CSIR states the surcharge pool level is designated at 781.3 feet North American Vertical Datum of 1988 (NAVD88) and that **“the project is suitable for continued safe and reliable operation only for headwater elevations below elevation 781.3 feet.”** This implies that water levels must be kept below the surcharge pool to avoid potential failure modes. The Inflow Design Flood (IDF) required by Part 315 statute is the 200-year flood, or the flood of record, whichever is greater. The most recent flood discharge request calculated by EGLE’s Hydrologic Studies Unit (HSU) was in 2018 and determined the 200-year flood discharge of 1,400 cubic feet per second (cfs). Using the same hydraulic input parameters in the hydraulic

section of the 2022 CSIR, the water level of the impoundment during the 200-year flood event is approximately 781.61 feet.

Part 315 defines an owner of a dam as “a person who owns, leases, controls, operates, maintains, manages, or proposes to construct a new dam”. According to county property records, U.P. Hydro Group owns Parcel Numbers 001-206-001-10, 004-036-002-00, 001-231-004-00, and 001-231-005-00, where the Au Train Dam’s north embankment and south levee are located. Therefore, U.P. Hydro LLC is an owner of the Dam.

Section 31521 of Part 315 states that:

> “(1) The department may issue emergency orders as provided in this section. The department may, by written notice, order an owner to immediately repair, draw down, breach, or cease operation of a dam where a dam is in imminent danger of failure and is causing or threatening to cause harm to public health, safety, welfare, property, or the natural resources or the public trust in those natural resources. If an owner fails to comply with an order, or is unavailable or unable to be contacted, then the department may undertake immediate repair, drawdown, breaching, or cessation of operation, as may be necessary to alleviate the danger, and may recover from the owner the costs incurred in a civil action commenced in a court of competent jurisdiction. The department may terminate an emergency order upon a determination in writing that all necessary emergency actions have been complied with by the owner and that an emergency no longer exists.
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> (2)When ordering emergency actions under subsection (1), the department may specify maximum drawdown level and discharge rates and require sediment surveys, water quality sampling, monitoring, or any other action determined necessary by the department to ensure adequate protection of the public health, safety, welfare, property, or natural resources or the public trust in those natural resources. The department may modify the requirements of an emergency order if, during the conduct of ordered actions, it determines that the modification is necessary to protect the public health, safety, welfare, property, or natural resources or the public trust in those natural resources.
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> (3)Upon the issuance of an emergency order, the department shall provide the owner with an opportunity for a hearing pursuant to the administrative procedures act of 1969 within 15 days of the date of its issuance. At the hearing, the department shall determine, based on information and fact, if the emergency order shall be continued, modified, or suspended as

> necessary to protect public health, safety, welfare, property, or natural resources or the public trust in those natural resources."

The most recent CSIR for the Dam identifies several deficiencies that put the Dam at imminent risk of failure during realistic loading conditions that occur during normal flow condition, and which are exacerbated during flood events smaller in magnitude than the Dam's design flood event. **Therefore, you are hereby ordered to take the following actions to alleviate dangers at the Dam:**

1. Within 24 hours of receipt of this order, respond with your intentions to comply with the order.
2. Maintain the current drawdown of the impoundment by using the headgate dewatering panels and penstock intake to target an impoundment elevation of 773.43 feet NAVD88, as previously ordered by FERC, until conditions that endanger the dam have been remediated.
3. By Thursday, July 2, 2026, provide a preliminary plan and schedule for immediate repair, drawdown, breaching or cessation of operation of the Dam as necessary to alleviate the dangers to the Dam associated with deficiencies noted in the 2022 CSIR. The plan must include proof of contract with a professional engineer as a first step for designing, permitting, and construction of any actions necessary to alleviate the dangers at the Dam. The schedule must include engineering design checkpoints with the engineer and EGLE at the 30%, 60%, and 90% design milestones.
4. By Monday, August 31, 2026, submit an administratively complete permit application to EGLE for review to complete any proposed modifications to the Dam.
5. Upon issuance of a permit from EGLE, immediately commence work as authorized in the permit.

Failure to submit timely responses or to meet the other deadlines indicated above will result in EGLE undertaking the ordered actions to alleviate dangers at the Dam and seeking to recover costs from U.P. Hydro LLC as provided for in Section 31521(1) of Part 315.

Section 31521(3) of Part 315 requires that EGLE provide the dam owner with an opportunity for a hearing pursuant to the Administrative Procedures Act of 1969 within 15 days of the date of its issuance. To provide this opportunity, EGLE has confirmed with the Michigan Office of Administrative Hearings and Rules (MOAHR) that Tuesday, June 16, 2026 is available, should U.P. Hydro LLC wish to request a hearing. EGLE will not request the hearing on behalf of U.P. Hydro LLC; it has merely confirmed that

MOAHR is available on Tuesday, June 16, 2026 if U.P. Hydro LLC wishes to receive a hearing on that date and time. The hearing is optional. To request a hearing, U.P. Hydro LLC must file a petition with MOAHR. If a hearing is requested, the MOAHR will send a weblink to attend the hearing remotely. The hearing will be for the purpose of determining whether this order should be continued, modified, or suspended in accordance with Section 31521(3) of Part 315. **If U.P. Hydro LLC wishes to request the optional hearing, please contact MOAHR as soon as possible at MOAHR-GA@Michigan.gov or 517-335-2484 to request the hearing. A copy of the petition for contested case form (which U.P. Hydro LLC must fill out to request the hearing) can be found here: Petition for Contested Case Hearing. Please note that U.P. Hydro LLC cannot be represented in the hearing by one of its managers or owners, it must be represented by an attorney licensed to practice law in Michigan, just as would be required if U.P. Hydro LLC were appearing in a traditional court of law.**

We anticipate your response and cooperation in resolving this matter. Please feel free to contact Michael Size, Dam Safety Unit, at 989-619-4295; SizeM@Michigan.gov; or EGLE, Water Resources Division, 525 West Allegan Street, P.O. Box 30458, Lansing, Michigan 48909 if you have any questions or wish to schedule a coordination meeting, or you may contact me.

Regards,

Lucas A. Trumble, P.E., Manager
Field Operations Engineering and Enforcement Section
Water Resources Division
517-420-8923

cc: Nathan Gambill, Assistant Attorney General
Tom Balmes, Au Train Township Supervisor
Alger County Soil Erosion and Sedimentation Control Officer
Alger County Emergency Manager
Elle Gulotty, Michigan Department of Natural Resources - Habitat Management Unit
Amy Lounds, EGLE WRD
Ryan McCone, EGLE WRD
Helana Nelson, EGLE WRD
Linda Hansen, EGLE WRD
Rebecca Huska, EGLE WRD
Chris Conn, EGLE WRD