

7. Mitigation and Enhancement Fund

7.1. General Concept.

UPPCO shall fund a Mitigation Enhancement Fund to mitigate for unavoidable impacts from project operation and to provide for the enhancement of other resources. The Mitigation Enhancement Fund is intended to provide complete funding for all of the activities set forth below in Section 7.4. UPPCO shall have no obligation to provide any additional funding with respect to these activities during the term of the Settlement except as provided in Sections 4.1.6.3 and Section 7.5 and as necessary to conduct water quality monitoring and/or to mitigate water quality limit exceedances.

7.2. Fund Administration

The Team shall decide how the monies are to be spent each year with all funds to be used within the Ontonagon River watershed. The Fund shall pay for water quality mitigative solutions (4.1.6.3) and water quality monitoring (4.1.7). Beyond these activities, the Team has the discretion to determine funding for all other items in Section 7.4. The Mitigation Enhancement Fund shall be managed by the Team as a standard business item using the protocol detailed in the Implementation and Oversight Section (Section 9).

7.3. Funding

UPPCO shall establish an internal Mitigation Enhancement Fund totaling \$2.46 million (in 1997 dollars) according to the funding schedule detailed in Appendix 2. UPPCO's annual contribution to the Mitigation Enhancement Fund shall be adjusted using the

Consumers Price Index (CPI) less 0.5 percent. The contribution will be adjusted using the latest annual CPI figure available. If the adjustment is negative, the Mitigative Enhancement Fund shall remain unchanged in that year.

7.4. Mitigation Fund Items

The Mitigation Enhancement Fund may be used to support the following mitigation and enhancement measures as written in Section 7.2, along with any other items agreed to by the Team

- Water quality monitoring (Section 4.1)
- Structural water quality mitigation (Section 4.1.6.3)
- Aquatic surveys and monitoring
- Difference between in-kind replacement of trashrack and fish protection at Victoria (Section 4.3)
- Upstream fish passage facilities (Section 4.2)
- Residual fish losses at Victoria
- Fish protection effectiveness studies (Section 4.3)
- Implementation of that portion of the Wildlife and Land Management Plan that provides for direct measures as determined by the Team to be appropriate, to study, mitigate or enhance fishery or wildlife resources (Section 4.7)
- Wildlife and fisheries habitat improvements on streams and lakes in the watershed, including wildlife structures, hydrographic mapping and wild rice restoration (Section 4.7)
- Direct measures, as determined by the Team to be appropriate, for the protection, mitigation and enhancement of threatened, endangered or sensitive species (Section 4.7.5)
- Eagle productivity flights and signage for eagles (Section 4.7.6)

- Direct measures determined by the Team to be necessary to implement the bald eagle, gray wolf, loon, and osprey management guidelines (Sections 4.7.6, 4.7.7, 4.7.8 and 4.7.)
- Nuisance plant inventory and control (Section 4.5)
- Soil erosion mitigation, including stream or reservoir bank rehabilitation, Lake Gogebic shoreline protection or that related to construction measures funded by the Mitigation Enhancement Fund (Section 4.4)
- Capital costs for new or improved recreation facilities or facility components (Sections 5.3 and 5.4)
- Telemetry for gauging (Section 3.2.2)

7.5. Items Outside of the Mitigation Enhancement Fund

The Mitigation Enhancement Fund shall not be used to support the following activities, which shall be directly funded by UPPCO.

- Project operation, including gauging (Section 3), except for telemetry
- Bond Falls outlet redesign (Section 3)
- In-kind trashrack replacement at Victoria (Section 4.3)
- Development of the Wildlife and Land Management Plan (Section 4.7)
- Woody debris and other vegetative material sluicing (Section 4.6)
- Cisco Dam outlet redevelopment, if necessary (Section 3.1.4.3)
- Soil erosion control for construction activities and licensee activities not related to the Mitigation Enhancement Fund (Section 4.4)
- Operation and maintenance of existing and new recreation facilities at Bond Falls Flowage and tailwater, Victoria Reservoir and tailwater and Lake Gogebic tailwater (Sections 5.3 and 5.4)
- State Historic Preservation Officer requirements (Section 6)
- Non-structural water quality mitigation (Section 4.1.6.3)