

Planning for Prosperity in River Hydro Communities

Kalamazoo River Calkins Bridge Group

Meeting Three Summary

August 28, 2024 | 9:00 a.m.–12:00 p.m.

Allegan County Community Services Building
3255 122nd Ave.
Allegan, MI 49010

Attendees (Organizations Represented)

- EPA Citizens Advisory Group
 - Kalamazoo River Watershed Council
 - Great Lakes Fishery Commission
 - Michigan Department of Natural Resources
 - City of Allegan
 - Allegan Township
 - Allegan County Board of Commissioners
 - Allegan Conservation District
 - Lake Allegan Association
 - Allegan County Administration
 - Allegan Area Chamber of Commerce
 - Consumers Energy
 - Public Sector Consultants (PSC)
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Welcome and Overview

Introductions were made for new members and an overview of the agenda was given.

Update from Consumers Energy

Josh Burgett has left Consumers Energy. Angela Thompkins has taken over the prosperity group process and is committed to working with the same level of transparency in each community group. The hydro RFP sale process has started and Consumers Energy has viable applicants. If the dam were to be sold, a decision would have to be made by early 2025 (Q1 or Q2 of 2025). If sold, a 30-year power purchase agreement would be in place, which give Consumers the option to buy renewable energy from the dam for up to 30 years after the sale.

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Consumers and PSC are working through establishing a notification process to alert communities when Consumers reaches its decisions regarding the dams. PSC and Consumers are planning to let all the communities know within the same week, in an efficient and fair fashion.

Questions were answered about the life expectancy of the dam and what the decision-making process of the dam sale would look like. The group voiced that a representative from the Michigan Department of Environment, Great Lakes, and Energy or the U.S. Environmental Protection Agency would be helpful to have at a future meeting.

Opportunity Mapping/Scenario Planning

Activity: Review Mapping Community Assets

Asset/ Opportunity	Scenario One: Hydro Facility Continues Operation	Scenario Two: Hydro Facility Is Removed	Scenario Two: Hydro Facility Is Sold
One	Improve upon water and habitat quality within Lake Allegan to control invasive species and sediment contamination	Implement a substantial remediation effort that prioritizes sediment management plan, invasive species management plan, and long-term habitat quality and aesthetics	
Two	Ensure property values continue to hold or increase their value	Maintain property values and land management through enhancement of a flowing river-based economy	
Three	Continue to improve recreational tourism assets and maintain shoreline access to maximize benefits for Lake Allegan and residents of the area	Increase and promote safe access opportunities for paddle sports, fishing, and other recreational access	
Four	Manage power generation through renovations to the powerhouse	Prioritize improving water resource management of groundwater and surface waters	
Five	Develop a strategic community plan that brings municipalities together to build a well-connected lake community	Create a recreational plan for long-term changes to the Kalamazoo River that is centered around walkability and a partnership with Allegan Parks and Rec	

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Scenario Three: Dam Sale

The table below summarizes the five key opportunities if the dam is sold to a third party. The group came up with a list of scenarios and narrowed down the list to a few top priorities. There was discussion on the need for a transition plan in the case of the dam being relicensed to a third party.

Asset/ Opportunity	Scenario One: Hydro Facility Continues Operation	Scenario Two: Hydro Facility Is Removed	Scenario Three: Hydro Facility Is Sold
One	Improve upon water and habitat quality within Lake Allegan to control invasive species and sediment contamination	Implement a substantial remediation effort that prioritizes sediment management plan, invasive species management plan, and long-term habitat quality and aesthetics	Acquirer is committed to the operation and function of the dam as an impoundment, not for other uses
Two	Ensure property values continue to hold or increase their value	Maintain property values and land management through enhancement of a flowing river-based economy	Define and acquire financial assets to secure the impoundment and fund other remediation efforts in Lake Allegan
Three	Continue to improve recreational tourism assets and maintain shoreline access to maximize benefits for Lake Allegan and residents of the area	Increase and promote safe access opportunities for paddle sports, fishing, and other recreational access	Implement a substantial remediation effort that prioritizes sediment management plan, invasive species management plan, and long-term habitat quality and aesthetics
Four	Manage power generation through renovations to the powerhouse	Prioritize improving water resource management of groundwater and surface waters	Transition plan is created for Lake Allegan through the relicensing of the impoundment that is managed by the County or State
Five	Develop a strategic community plan that brings municipalities together to build a well-connected lake community	Create a recreational plan for long-term changes to the Kalamazoo River that is centered around walkability and a partnership with Allegan Parks and Rec	Create a recreational plan for long-term changes to the Kalamazoo River that is centered around walkability and a partnership with Allegan Parks and Rec

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Focus on Achieving Future Aspirations

A discussion was had on recreational improvement once a decision about the impoundment is made. The group wanted to discuss how to prioritize a walkable path when there isn't money for recreational development. The group reached consensus around the idea that it would be helpful to have a representative from the county parks and recreation department lay out how a vision for recreation on Lake Allegan might look like in the future. An overview of the parks and rec plan might be the most impactful.

Future Meetings

The next meeting will be on November 12 and will continue the community asset mapping exercise for if the dam is sold. There is potential for a guest from the county parks and recreation department to join the conversation to discuss how the dam being sold might impact recreation on Lake Allegan.

LAKE ALLEGAN ASSOCIATION, INC IF CALKINS DAM IS SOLD

INFORMATION ABOUT BUYERS

We would like information about the buyers, including the following:

- Who is the buyer?
- A list of buyer's existing Projects.
- The buyer's corporate structure, including the plan to buy the lake and dam through a subsidiary that could be sold.
- Contact info for community groups around the buyer's other projects.
- The buyer's intentions with respect to the lake and the dam.
- A chance to chat with representatives of the buyer.
- Confirmation that the buyer is sufficiently capitalized and experienced to run the dam and the lake safely and to bear responsibility for errors.

BETTER RELATIONSHIP

Regardless of who owns the lake and dam, the Lake Allegan Association, Inc. would like a better, more collaborative relationship with the licensee.

1. **RECREATION PLAN.** There is currently no formal recreation plan, but there is room to create and implement one, even mid-license term. Demand for recreation amenities have expanded, and many of the recreation amenities have degraded.
2. **INVASIVE SPECIES MANAGEMENT PLAN.** The lake is being overrun with invasive species, particularly purple loosestrife, curly-leaf pondweed, and Eurasian Milfoil. When the testing is done this year, we believe the change will vastly exceed 10%. We anticipate that there will be a need under the current license to adopt an invasive species control and management plan after Consumers Energy's 2024 testing is completed.
3. **ENVIRONMENTAL STEWARDSHIP.** We would like to have an ongoing, constructive dialogue with the licensee about how we and the licensee can be responsible environmental stewards of the lake. This dialogue includes periodic meetings among representatives of the licensee, the surrounding community and elected officials.

4. **TMDL WORKING GROUP.** There is a Lake Allegan/Kalamazoo River Watershed Phosphorus TMDL Point Source/Implementation Committee, currently chaired by Doug McLaughlin ("TMDL Working Group") to work on lowering phosphorous levels in Lake Allegan. It is our understanding that Consumers Energy – the owner of the lake – has never participated. We would like the licensee, whether that is Consumers Energy or a new buyer, to participate in the TMDL working group quarterly meetings.
5. **FISH PASSAGE.** The license obligates Consumers Energy to erect a fish ladder. Unfortunately, the fish ladder has never been functional. We believe it is imperative that fish passage at Calkins Bridge Dam that allows sturgeon to pass but contains sea lamprey be pursued.
6. **ONGOING REVIEW PROCESS.** We would like the licensee to create a process for review and approval of non-project, charitable activities on the lake, including fishing contests and boating events open to the public.

TRANSACTION TERMS

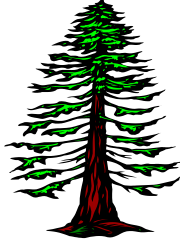
1. **REVIEW AND COMMENT.** We would like representatives of the community to have a chance to review and comment on the transaction documents effecting a sale.
2. **INDEMNIFICATION.** The terms of the asset sale agreement should require that any liabilities of the operating entity be indemnified by any better-capitalized parent entity. This would manage risk around an under-capitalized subsidiary owning the lake and dam and escaping any potential liability that arises.
3. **DEED RESTRICTION.** The 1968 deed that conveyed the lake and dam to Consumers Energy contains a covenant that runs with the land that obligates the licensee to maintain the lake level so long as it is generating power at the dam. We'd like the transaction documents to acknowledge that deed restriction.
4. **RESTRICTIONS ON TRANSFER.** The lake and dam were built using public resources, and sold to

Consumers Energy to generate power for the benefit of the public. Once the dam and lake are no longer used to generate power, the lake and dam should come back to the public. Accordingly, the transaction documents should contain restrictions on transfer that ensure that the lake and dam come back to the public, and not to a third-party for commercial exploitation. This can be accomplished with a right of first refusal for the benefit of the county, the Lake Allegan Association, the state or a newly created tax exempt entity, as well as conservation easements.

TRANSITION PLAN

If Consumers Energy were to decommission the dam or the power-generating plant, it would be required to create, implement and fund a transition plan. Consumers Energy has owned this site, and profited on this site, for more than 50 years. Consumers Energy should not escape its obligations to transition the site to a new usage merely by selling it.

- Consumers should invest in a transition plan. We view this Prosperity Group as the first stage in that plan.
- Consumers Energy should make a substantial grant or contribution into a fund to support future operations of Lake Allegan.



VALLEY TOWNSHIP

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David Nyitray

August 21, 2024

The following is a list of concerns and questions from the Valley Township Board:

- 1) The path of Allegan 120th road. What, if any, parts have been abandoned? What is the roads position in the area of the Allegan Dam? What other road segments have been added and where are they? Are they properly recorded? They are not on the County map.
- 2) What property and right-of-ways does Consumers have in and around the Calkins Dam?
- 3) Who owns the fishing platform? Why did the township have such a problem getting the DNR to remove the dangerous ladder from the platform?
- 4) Consumers gave false information to the Sheriff department when the motorcycle crashed into the river.
- 5) The township has tried unsuccessfully to get quarterly meetings with Consumers.
- 6) The township would like to be informed when there is a problem in the powerhouse.
- 7) What is the point of (end of) navigability of the Kalamazoo River? The United States Army Core of Engineers states it is the Allegan City Dam (downtown Allegan). This being the case, the waters to downtown Allegan are U.S. Section 10 water under section 10 rules and also under section 404 of the Clean Waters Act, both enforced by the USACE.
- 8) What is the OHWM (ordinary high-water mark) at the Calkins Dam? It was first reported at 595 feet above sea level and now the USACE would all to recognize the new level at higher OHWM since the river is creating this new level by its own flow. Can all agree on the new OHWM the USACE uses?
- 9) Is there agreement that the large steel wall immediately below the hydro dam on the east shore was built AFTER the hydro dam construction? Historian John Paul states that he saw it built in 1937.
- 10) Is there agreement that the land involved in the Lower Kalamazoo River Natural River's Act begins downriver of the now Yonker (4142 Allegan Dam Rd) and Elam (4146 Allegan Dam Rd) properties? Administrators of the program stated that the properties upriver from the Elam property are exemptions from the program.

11) Is there agreement and support of the Michigan law that states that inland waters, the water bottom landowner, and the river's adjacent shoreline owner must be the same, they cannot be separated. This being the case, the river bottomlands immediately below the dam having Consumers as the owner must also have Consumers as the shoreline owner.

12.) The land/buildings at the west end of Lake Allegan, formally known as Camp Lakewood, was an establishment of the Resettlement Administration and not a Civilian Conservation Corp established organization. Knowing and agreeing to this opens up all the U.S. documents for the Allegan RA program. Will the Allegan RA documents be acknowledged as fact?

13) The DNR obtained many acres of land around the Calkins Dam (1982) from Consumers Energy via the Dingell-Johnson Act, also called the Federal Aid in Sport Fish Restoration Act. Can we agree this event happened and the principles of the act should be followed?

14) Shouldn't river construction be accompanied by proper permitting? General permits, individual permits, after the fact permitting, and joint permits must be understood and used properly.

Valley Township is very interested in everything that affects Lake Allegan. The properties on and around Lake Allegan are major contributors to the tax base of Valley Township. Our residents built here to enjoy the lake, including fishing and water sports.

Ron Remington, Supervisor
Brandee Ellis, Clerk