

ORIGINAL

**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

MARTIN DAM PROJECT

PROJECT No. 349

**APPLICATION FOR NEW LICENSE
FOR MAJOR WATER POWER PROJECT – EXISTING DAM**

INITIAL STATEMENT

FILED
SECRETARY OF THE
COMMISSION
2011 JUN -8 A 11:58
FEDERAL ENERGY
REGULATORY COMMISSION

1. Alabama Power Company (Alabama Power or Applicant) applies to the Federal Energy Regulatory Commission (FERC) for a new license for the Martin Dam Project (FERC No. 349) as described in the attached exhibits.

2. The location of the Project is:

State or territory: Alabama
County: Elmore, Coosa and Tallapoosa Counties, AL
Township or nearby towns: Alexander City, Dadeville, and Jacksons Gap
Stream or other body of water: Tallapoosa River

3. The exact name and business address of the applicant is:

Alabama Power Company
600 North 18th Street
P.O. Box 2641
Birmingham, AL 35291-8180

The exact name and business address of each person authorized to act as agents for the Applicant in this application are:

Mr. Theodore J. McCullough
Senior Vice President and Senior Production Officer
Alabama Power Company
600 North 18th Street
P.O. Box 2641
Birmingham, AL 35291-8180

4. The Applicant is a domestic corporation organized under the laws of the State of Alabama and is not claiming preference under section 7(a) of the Federal Power Act. The Applicant is the existing licensee for Project No. 349 and is seeking a new forty (40) year license under section 15(a) of the Federal Power Act.
5. (i) & (ii) The statutory or regulatory requirements of the state in which the Project is located that may affect the Project as proposed, with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes, and with respect to the right to engage in the business of developing, transmitting, and distributing power and in any other business necessary to accomplish the purposes of the license under the Federal Power Act, and the steps which the Applicant has taken or plans to take to comply with each of such laws are:
 - A) Alabama Power Company is required to operate and exists under the general laws of the State of Alabama regulating business corporations, codified in Title 10 of the Alabama Code of 1975. Alabama Power Company is a corporation organized and existing under the general laws of the State of Alabama as more specifically shown in and by the certified Charter previously submitted to and on file with the Federal Power Commission (predecessor to the Federal Energy Regulatory Commission). The Applicant, by this Charter, has the right to manufacture, supply and sell to the public power produced by water as a motive force.
 - B) Title 10, Chapter 4, Section 320 of the Alabama Code of 1975 is a source of the rights, powers, and authority of water power companies operating in Alabama. The pertinent parts of this provision are as follows:

“All corporations organized under the general laws of this state, or heretofore under a special act of the legislature, and all corporations organized under the laws of any other of the United States which have complied with the Constitution and laws of the State of Alabama as to foreign corporations and which by their charter have the right to manufacture, supply and sell to the public power produced by water as a motive force, shall, after acquiring by purchase, or otherwise than by condemnation, a dam site or power site comprising not less than one acre of land upon each and opposite sides of any watercourse or after acquiring by purchase, or otherwise than by condemnation, a dam site comprising not less than one acre of land upon one side any watercourse and, where the dam site on the other side of such watercourse is owned or controlled by the United States, shall have acquired the permission of the United States to attach to or use the lock, dam or other property owned or controlled by the United States for an abutment site on the other side of such watercourse....”

As required by this Section, the Applicant has acquired by purchase and not condemnation the dam site of not less than one acre on each side of the watercourse. The

Applicant, in addition to owning the dam site, as required by law, acquired and owns the land inundated.

Title 10, Chapter 4, Section 323 of the Alabama Code of 1975 states:

“Any dam erected in accordance with the provisions of this article shall be considered a dam authorized by the legislature of this state at the particular site selected and of the specific height and dimensions determined upon.”

In accordance with this section, the Applicant is authorized by the laws of Alabama to operate the hydroelectric project that is the subject of this application.

- C) Section 401(a) of the Clean Water Act of 1977, 33 U.S.C.A. Section 1341(a), requires that an applicant for a federal license to construct or operate facilities, which may result in any discharge into navigable waters, must provide the federal agency with a certificate from the state in which the discharge originates or from the appropriate interstate water pollution control agency.

In Alabama, such certificates are issued by the Alabama Department of Environmental Management (ADEM) under the general authority provided by the Alabama Water Pollution Control Act, which is codified in Title 22, Chapter 22, Section 9 of the Code of Alabama (1975).

In May 2010, Alabama Power requested a Water Quality Certification pursuant to Section 401(a) of the Clean Water Act from ADEM. On May XX, ADEM issued a Water Quality Certification for the Martin Dam Project. Additional information on the conditions of the Water Quality Certification is presented in Exhibit E.

6. The name and address of the owner of the existing project facilities are:

Alabama Power Company
600 North 18th Street
P.O. Box 2641
Birmingham, AL 35291-8180

The dam that is the subject of this application is not owned or operated by the Federal government.

ADDITIONAL INFORMATION
REQUIRED BY 18 C.F.R. § 4.32(A)

1. There is no person, citizen, association of citizens, domestic corporation, municipality, or state that has or intends to obtain and will maintain any proprietary right necessary to construct, operate, or maintain the Project, other than the Applicant.
2. (i) Every county in which any part of the Project, and any federal facilities that would be used by the Project, would be located:

Elmore County, Coosa County, and Tallapoosa County, Alabama

- (ii) Every city, town, or similar local political subdivision:

- a) In which any part of the Project, and any federal facilities that would be used by the Project, would be located:

The Project is located near Alexander City, Dadeville, and Jacksons Gap.

Alexander City
4 Court Square
P.O. Box 552
Alexander City, Alabama 35011-0552

City of Dadeville
192 S Broadnax Street
Dadeville, AL 36853

Jacksons Gap Town Hall
1405 Main Street
Jacksons Gap, AL 36861

There are no Federal facilities used by the Project.

- b) That has a population of 5,000 or more people and is located within 15 miles of the Project dam(s):

Alexander City is the only city with a population of 5,000 or more people within 15 miles of the Project.

(iii) Every irrigation district, drainage district, or similar special purpose political subdivision:

a) In which any part of the Project, and any federal facilities that would be used by the Project, would be located:

The Applicant is aware of no such irrigation districts, drainage districts or similar special purpose political subdivisions.

b) That owns, operates, maintains, or uses any Project facilities or any federal facilities that would be used by the Project:

The Applicant is aware of no such irrigation districts, drainage districts or similar special purpose political subdivisions.

(iv) Every other political subdivision in the general area of the Project that there is reason to believe would likely be interested in, or affected by, the application:

The Applicant is aware of no such political subdivisions.

(v) All Indian tribes that may be affected by the Project:

The following tribes were contacted and invited to participate.

Bureau of Indian Affairs
Eastern Regional Office
545 Marriott Drive, Suite 700
Nashville, TN 37214

Augustine Asbury
Alabama-Quassarte Tribal Town
P.O. Box 187
Wetumpka, OK 74883

Earl Babry
Tunica-Biloxi Tribe
P.O. Box 1589
Marksville, LA 71351

Gingy Nail
Chickasaw Nation
P.O. Box 1548
Ada, OK 74820

Emman Spain
Muscogee (Creek) Nation of Oklahoma
Cultural Preservation Department
P.O. Box 580
Hwy 75 and Loop 56
Okmulgee, OK 74447

Willard S. Steele
Seminole Tribe of Florida
Ah-Tah-Thi-Ki Museum
HC 61 Box 21 A
Clewiston, FL 33440

Bryant Celestine
Alabama-Coushatta Tribes of Texas
571 State Park Road 56
Livingston, TX 77351

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Lelyn Thomas
Coushatta Indian Tribe
P.O. Box 818
Elton, LA 70532

Robert Thrower
Poarch Band of Creek Indians
5811 Jack Springs Road
Atmore, AL 36502

3. The notification requirements of 18 CFR § 4.32(a) (v) do not apply to this application because it is for a license under Section 15 of the Federal Power Act.

SUBSCRIPTION AND VERIFICATION

This application for a new license for the Martin Dam Project is executed this 31st day of May, 2011 in the State of Alabama, County of Jefferson, by Theodore J. McCullough, Senior Vice President and Senior Production Officer of Alabama Power Company, who, being duly sworn, deposes and says that the contents of this application are true and correct to the best of his knowledge and belief.

ALABAMA POWER COMPANY



Subscribed and sworn to before me, a Notary Public of the State of Alabama, this 31st day of May, 2011.

Carol M. Cold-Purcell
Notary Public

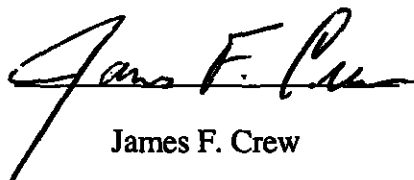
My commission expires: **NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 25, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS**

(SEAL)

DISTRIBUTION OF APPLICATION DOCUMENTS

This day, the foregoing document has been mailed to each person designated on the attached Distribution List, compiled by Alabama Power Company during the course of the Martin Dam Project Relicensing Process.

Dated this 2nd day of June, 2011.

A handwritten signature in black ink, appearing to read "James F. Crew". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

James F. Crew

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