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Elmore County Commission

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SECRETARY OF THE
COMMISSION
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FEDERAL ENERGY
REGULATORY COMMISSION

Earl Reeves
Chairman

August 5, 2010

Mark Hragyil
District 1

Secretary, Kimberly D. Bose
Federal Energy Regulatory Commission
888 1st Street NE
Washington, DC 20426

Paul C. Taylor
District 2

David Bowen
District 3

Re: Martin Hydroelectric Project (FERC No. 349) – Invocation of “Coordination”
between FERC and CEW&SA as Required by Federal Statute

Joe Faulk
District 4

Dear Secretary Bose,

The Elmore County Commission (“County”) oversees the management of the various governmental functions of Elmore County, a political subdivision of the State of Alabama. The County’s primary purpose and obligation is to provide services to citizens, businesses and other entities, including other governmental entities located within Elmore County, and to ensure the safety, health and welfare of citizens and their property.

The County has recently asserted its rights to have the Federal Energy Regulatory Commission (FERC) coordinate with the County regarding work FERC is now conducting in its federal re-licensing of the Martin Hydroelectric Project (FERC No. 349). This invocation of coordination relates to any issues whereby said project may either directly or indirectly impact the following: the County; Elmore County citizens, landowners and business; the counties, cities and communities located within Elmore County; and the short and long term economic, environmental, and health and safety implications from the Martin Hydroelectric Project. The County understands that FERC has been working on the licensing of the Martin Hydroelectric Project (FERC No. 349) for several years. However, to date FERC has not yet coordinated its efforts with the County with regards to its re-licensing of said project which will certainly impact Elmore County and its citizens.

“Coordination” as applied to federal statutes and regulations related to this particular federal project is defined specifically in Section 1712 of the Federal Land Policy Management Act (FLPMA). While FLPMA is directed to management of the federal lands by the Bureau of Land Management, it contains the only definition of “coordination” or “coordinate” that Congress has prescribed. The County is aware that

once Congress has defined a term for agency management, it intends the same definition when it continues using the term in other management statutes without further definition.

The County affirmatively asserts that the licensing of the Martin Hydroelectric Project (FERC No. 349) will have a significant effect on Elmore County, as well as other surrounding counties, and the citizens, landowners and businesses located within Elmore County. The County hereby affirmatively asserts coordination with FERC in the review, evaluation and further development of the licensing process under way or under consideration for the Martin Hydroelectric Project (FERC No. 349). It is clear that any licensing or re-licensing of the Martin Hydroelectric Project (FERC No. 349) will affect various interests of Elmore County including, but not limited to, tourism, potable water supply and flood control.

The County is sure you are aware of the various federal statutory requirements of coordination with local governments regarding the development and processing of this specific federal project, including FERC's own regulations issued pursuant to the Federal Power Act. In addition, due to the nature of this action being major federal action, coordination with local governmental entities is required by the National Environmental Policy Act (NEPA).

The County plans, through coordination, to focus intently on any adverse impact that your plan for this project will have on Elmore County's economic stability, access to public waters for human consumption and utilization, flood control, and the safety, health, and welfare of Elmore County and surrounding counties. Despite the fact that coordination is legally required, the County is hopeful that FERC will regard coordination with the County as an opportunity to seek to reach consistency between federal needs and the project goals on one hand, and the County's concerns which relate to the responsibilities of this local governmental entity to its citizens, landowners and businesses that all rely on the governmental oversight of the County on the other hand.

The County desires to meet with you and/or others with FERC who are engaged in the licensing of the Martin Hydroelectric Project (FERC No. 349) at a specially called work session of the County. I would request such a meeting to be held at 4 p.m., prior to any of regularly scheduled work sessions and meetings either in September or October of this year. Proposed meeting dates are currently set for September 14th, September 27th, October 12th or October 25th of 2010. This meeting would most certainly be held at the County's public meeting room on the second floor of the Old Elmore County Courthouse. The Old Elmore County Courthouse is located at 100 East Commerce Street, Wetumpka, Alabama. If any of these meeting dates are not convenient, please contact me to schedule an alternate and mutually convenient date.

My proposed agenda for the meeting described above would include the following elements:

- 1. Status of the licensing plan for the Martin Hydroelectric Project (FERC No. 349).**
- 2. Efforts made in the planning process to ensure access to public waters for human consumption, business use, and safety utilization and the impacts to water withdrawers located in Elmore County such as CEW&SA.**
- 3. Efforts made in the planning process to ensure reasonable flood control measures for the Tallapoosa River and other lands to be affected. In addition, a means by which to enforce said flood control measures to provide adequate incentive for proper flood control management and significantly reduce the risk of flooding of landowners, farmers, timber growers and any other individual, business or governmental entity that may be adversely affected by a flood event on the Tallapoosa River and other adjacent areas.**
- 4. Current timelines for completion of the various proposed studies and preparation and filing of any Draft Environmental Impact Statement (DEIS).**
- 5. Plan for sharing the contents of the DEIS with the County and Elmore County citizens affected by the project so the County may review the work and include its analysis of the DEIS so that it may be viewed and considered by the public along with the DEIS. The County believes that FERC's regulations and the regulations pursuant to NEPA call for the opportunity to have the County's analysis, as a coordinating local governmental entity, included in any review by the public.**
- 6. Status of any and all alternatives to the proposed action of licensing of Martin Hydroelectric Project (FERC No. 349) that have or should be considered which may affect the County, Elmore County, Elmore County's citizens, landowners and businesses, including any efforts to protect the safety, health, and welfare of the citizens to be impacted.**
- 7. The evaluation of FERC of any water withdrawal issues or flood control issues as such may relate to the licensing of the Martin Hydroelectric Project (FERC No. 349) including, but not limited to, current practices, standard practices in the Southeast, economic considerations to include socioeconomic impact, environmental impact to include the impact on the human environment, equitable treatment of water withdrawers, and the economic and environmental impact of flood events on landowners, farmers and timberland owners.**

The County reserves the right to expand or modify the agenda items presented above, but would certainly provide FERC reasonable advance notice of any proposed modification. I would ask that you please bring with you any members of your staff that may assist in responding to the agenda items. Also, if you would like to add to the coordination agenda please submit all such to me and I will be glad to include additional agenda items. The County looks forward to moving ahead with coordination in the licensing of the Martin Hydroelectric Project (FERC No. 349) and meeting with you in the near future.

I look forward to hearing from you soon.

Sincerely,



Earl Reeves, Chairman
Elmore County Commission

cc: Mr. Mark Pawlowski, FERC
Ms. Jennifer Adams, FERC
Mr. Charles D. Wagner, FERC
Mr. Charles D. McCrary, Alabama Power Company
Mr. James F. Crew, Alabama Power Company
Mr. Thomas C. Ingram, CEW&SA
Mr. Robert L. Prince, Jr., CEW&SA
Mr. Robert J. Morris, Esq., CEW&SA
Mr. Thomas Dozier, Elmore County Landowner
Mr. Euel Screws, Esq., Elmore County Landowner