

June 7, 2010

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FILED ELECTRONICALLY

Ms. Kimberly D. Bose
Secretary
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888 1st Street NE
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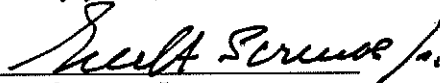
**RE: Martin Hydroelectric Project (FERC No. 349-150) – Response of
Farmers/Landowners to Alabama Power Company’s Final Report – Study
Plan 12(A) – Flood Control Guidelines Changes Modeling Analysis**


Dear Secretary Bose:


Please find attached the Response of Farmers and Landowners to the Alabama Power
Company’s Final Report on Study Plan 12(A).

If you have any questions regarding this response, please contact me at 334-834-1180 or
smith@copelandfranco.com.

Very truly yours,


Euel A. Screws, Jr.


Thomas W. Dozier, III


Hassey Brooks

For Farmers-Landowners

June 7, 2010
Page 2

Cc: Mr. Mark Pawlowski – FERC – (w/encls.)
Ms. Jennifer Adams – FERC – (w/encls.)
To persons marked with an * on MIG3 Stakeholder Distribution List

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June 7, 2010

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FERC

RE: Martin Hydroelectric Project, FERC 349

**RESPONSE OF FARMERS-LANDOWNERS TO ALABAMA POWER
COMPANY'S FINAL REPORT ON STUDY PLAN 12(A)**

This study plan contains over 525 pages, not one of which attempts to answer or respond to the Farmers-Landowners concerns previously filed with the Commission.

This study plan uses the phrase "Flood Control Guidelines" over 200 times but does not cover even a vestige of Flood Control to be used by the Power Company in its operation of Martin Dam.

It is obvious that the Company contends that its modified Rub Curve changes (which only established the level of Lake Martin during the year) ipso facto satisfies the flood control duty of the Company.

That is, by using the phrase "Flood Control Guideline", the Company hopes to be relieved of any responsibility of Flood Control if, at the time of the Flood, Lake Martin's elevation was at or below the rub-curve (Flood Control Guidelines).

This position is fallacious in several respects:

1. It ignores the fact that Lake Martin is one of the largest hydroelectric lakes in the nation, with much storage capacity.
2. It ignores the fact that Martin Dam has 20 flood gates, each with the capacity to discharge 6,700 cubic feet of water a minute.

3. It ignores the fact that Lake Harris, located 75 miles upstream has flood control mandated by the U.S. Corps of Engineers which would result in a "wall" of water to shortly flow into Lake Martin when flood gates at Harris are opened.

4. It ignores the damages caused to downstream Farmers-Landowners from the haphazard operation of flood gates at Martin.

5. It ignores the two basic premises of flood control on large reservoirs. These are that flood control can be established only by (a) maintaining adequate storage capacity or (b) timely pre-evacuation in advances of a predictable rain event. This axiom is known by every professional engineer involved with water. We urge the Commissions to contact the U.S. Corps of Engineers on this matter and get its input, and, hopefully persuade the Corps to take over Flood Control responsibilities on Lake Martin for the new licenses. This would establish some continuity in flood control on the Tallapoosa River system.

There are several instances of recent flooding downstream which could have and should have been prevented by responsible exercise of flood control by the Company. These include:

1. The flood in early May 2003. In May 2003, when Lake Martin was at full pool, and flood gates were opened on Lake Harris (per the Corps of Engineers requirements) discharging a wall of water downstream, Martin remained at full pool and suddenly had to open 15 flood gates which (1) destroyed the river banks and trees, (2) destroyed the crops of Farmers-Landowners, (3) destroyed much wildlife, etc. and all of this could have, and should have been averted, with either adequate storage capacity or some minor pre-evacuation of Martin several days before this 4 year rain event which was predicted by every weather reporting station a week in advance.

2. The flood of July 4, 2003. Two months later, after replanting, a similar minor flood (2 year flood) occurred when Martin was at full pool. This July 4, 2003 flood destroyed the re-planted crops. The result of these two preventable floods costs the Farmers-Landowners over \$2,500,000.

A hydrograph of these 2 floods was contained in our first response.

3. The flood of late March 2009. This flood caused some damages, but thankfully occurred early so farmers could re-plant. See attached letter from the Farmers-Landowners to the Company (Exhibit A).

4. The flood in November and December 2009. This flood inundated several hundred acres of mature cotton, ready for harvest, causing 50 to 60% loss for some Farmers.

5. The minor flood this year in late March 2010. This caused the re-planting of 100 Ac. of cotton by one farmer.

For all 5 of these floods, they could have been prevented or the damage incurred would have been minimized with some timely pre-evacuation.


In conclusion, the Company's 525 page Final Report on Study Plan 12(a) is entirely silent on the matter heretofore presented in the Farmers-Landowners two responses filed with the FERC. It is though we didn't exist. We are the only parties who have incurred substantial losses caused by the Company's unsupervised operation of Lake Martin, which the Company seeks to continue in its new forthcoming license. The total lack of Flood Control at Lake Martin (either required by FERC or the Corps of Engineers) will ultimately result in some 10,000 acres of Alabama's best farm lands to be lost for farming and the value of this land severely diminished.

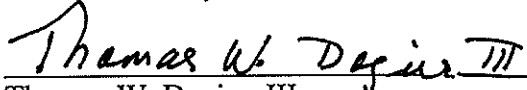
The last page of the Company's Final Report contains the comment of the HOBO's, attached as Exhibit B to the effect that farming is a "risk assumed by the involved property owners." The Power Company's Final Disposition of this comment is:

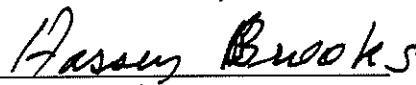
"APC must quantify any impacts downstream relative to a change from the baseline condition independent of FEMA"

Obviously the company takes the position that FEMA has nothing to do with impacts downstream from the operation of Martin Dam.

Respectfully submitted,


Euel A. Screws, Jr.


Thomas W. Dozier, III


Hassey Brooks

Representatives of Farmers-Landowners

March 24, 2009

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RE: Farmers on Tallapoosa and Alabama rivers, south of Tallassee, Alabama

Gentlemen:

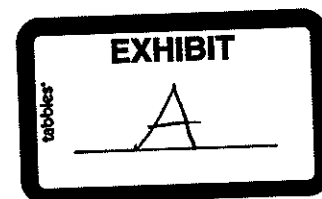
The undersigned are engaged in row-crop farming along the Tallapoosa and Alabama rivers south of Tallassee, and represent other similar farmers.

For the past five days the National Weather Service has predicted heavy rains across central and north Alabama for the next several days, viz 03/25/09 through 03/29/09.

Lake Martin is at almost full pool as of 03/23/09 with an elevation of 489.6+ feet. Historically, this is extremely high for late March and was the result of 4 to 5 inches of rain which fell around 10 days ago.

Many of us have already planted and fertilized corn and have begun preparing cotton and soy-bean fields.

This letter is to respectfully request that the Alabama Power Company pre-evacuate Lake Martin by a sufficient amount (one, two or three feet) to prevent flooding of the Tallapoosa and Alabama rivers. These rivers are very low at this time.

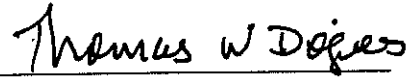


Such pre-evacuation will have no appreciable effect on the recreational use of the lake.


Very truly yours,



Euel A. Screws, Jr.



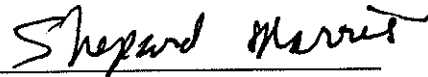
Thomas W. Dozier III



Palmer Jenkins



Paul Taylor



Shepard Morris

HOB0

<u>Tracking Number</u>	<u>Comment</u>	<u>FINAL Disposition of Comment</u>
1.5	While a few downstream stakeholders have expressed their concerns with higher winter level, approving authorities need to be able to evaluate the proposal in reference to FEMA guidelines. The FEMA flood elevations will show that any flooding downstream will occur in the natural flood plain of the river. Any activity occurring in the flood plain, such as farming, is a risk assumed by the involved property owner.	APC must quantify any impacts downstream relative to a change from the baseline condition independent of FEMA

