

**Black Warrior River Hydroelectric Project
Cultural Resource Meeting Summary
held November 15, 2002
Project No. 2165-015**

Meeting Attendees:

Janet Hutzell - Federal Energy Regulatory Commission (FERC or Commission)
Patti Leppert - Federal Energy Regulatory Commission
Lindsey Breithaupt - Alabama Historical Commission
Elizabeth Ann Brown - Alabama Historical Commission
Lee Anne Hewett - Alabama Historical Commission
Amanda McBride - Alabama Historical Commission
Bill Gardner - Alabama Power Company (APC)
Barry Lovett - Alabama Power Company
Bill Sim - Alabama Power Company
Kelly Schaeffer - Kleinschmidt Associates
Carey B. Oakley - MACTEC
Kenneth H. Carleton - Mississippi Band of Choctaw Indians
Jean Allan - U.S. Forest Service
Elrand D. Denson - U.S. Forest Service

After introductions, the attendees reviewed and commented on the August 2002 cultural resource meeting summary. Minor revisions were made and the document was approved. FERC staff would provide a copy of the approved document to members of the Black Warrior River Restricted Service List (members) and invited tribes. The approved document would also be filed with the Commission.

A portion of the Lewis Smith Development, part of the Black Warrior River Project (Warrior River Project), is located in the Bankhead National Forest (Forest). Jean Allan, of the U.S. Forest Service, presented a map that identified the lands previously surveyed for cultural resources, and the locations of known archeological sites. Ms. Allan estimated that APC has flood easement rights for 924 acres of Forest lands. Of these lands, approximately 216 acres have been previously surveyed for cultural resources.

After the presentation, the attendees began to discuss the Area of Potential Effects (APE) for the Lewis Smith Development (Smith Development). To aid in defining the APE, FERC staff had asked the members to tentatively identify the APE prior to the November cultural resource meeting. The Alabama Historical Commission, the Mississippi Band of Choctaw, and APC provided responses. These responses, along with

Examples of Area of Potential Effects, a FERC staff prepared document that provided the APEs for other hydroelectric projects, were distributed to the attendees. *Examples of Area of Potential Effects* and the responses are attached.

The attendees reviewed the information, and began discussing the areas that should be included within the Smith Development's APE. The U.S. Forest Service (Forest Service), Alabama Historical Commission, and Mr. Kenneth H. Carleton requested that the lands APC owns in fee, land that APC has the right to flood, and the Smith Development's viewshed be included within the defined APE. After further discussion, the attendees agreed that the APE definition for the Upper Menominee River Basin (P-2072-008 et al.; 2471-005) (Upper Menominee) would be a suitable definition for the Smith Development's APE. The Upper Menominee APE definition is "The APE includes the following: (a) lands enclosed by the Project boundary; (b) attached or associated buildings and structures extending beyond the Project boundary, which contribute to the National Register of Historic Places eligibility of the hydroelectric generating facilities; and (c) lands or properties outside the Project boundary, where the Project may cause changes in the character or use of Historic Properties, if any Historic Properties exist".

APC proposes to use the Upper Menominee's APE definition, with some modification, for the Smith Development's APE. Prior to the next cultural resource meeting, APC stated they would provide FERC staff with a proposed APE definition. FERC staff would then distribute the proposed definition to the members and invited tribes, and ask for comments.

The U.S. Army Corps of Engineers (Corps) also responded to the request to define the APE, although these comments were in reference to the Bankhead Development, the other development for the Warrior River Project. APC owns the powerhouse and substation for the Bankhead Development, while the dam and reservoir are owned and operated by the Corps. The Corps stated that no historic properties, upstream or downstream, are affected by the Bankhead Development. As defined by the Advisory Council on Historic Preservation (Advisory Council), "The Area of Potential Effects means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist."¹ Since no historic properties exist, an APE for the Bankhead Development is not required per the Advisory Council's regulations. The Corps response is attached.

The next cultural resource meeting for the Warrior River Project is tentatively scheduled for January 24, 2003, at APC Corporate Headquarters.

¹ 36 CFR § 800.16(d).

Attachments: Preliminary APE for the Warrior River Project

Preliminary APE for the Warrior River Project

Provided below are the preliminary Areas of Potential Effects (APEs) for the Warrior River Project as defined by the Alabama Historical Commission, the Mississippi Band of Choctaw Indians, and Alabama Power Company. The U.S. Army Corps of Engineers's comment did not specifically address the APE for the Project; however, it is included because of its relevance to the process.

Alabama Historical Commission

The Alabama Historical Commission has reviewed information regarding the Area of Potential Effect (APE) for the Warrior Project (Smith Lake and Bankhead areas). Our office has determined the APE to be all lands owned or leased by Alabama Power Company to the high water line (522') and all contiguous areas which have a view of these lands.

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Mississippi Band of Choctaw Indians

Subject: Request for the Preliminary APE for the Warrior River Project

The Mississippi Choctaw position is that the APE for this, and in fact all of these projects, is the high water line for a 100 year flood. The level of the lake and the fluctuations of that water level is what has an effect on any archaeological sites that are present. Therefore it is the water level at it's highest which should define the Area of Potential Effect for the projects. In addition, any lands involved in the production of power (the actual power houses, lands with transmission lines leading from them, access roads to them, etc) that are out side the lake boundaries should also all be included in the APE.

Kenneth H. Carleton
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Alabama Power Company

As requested from FERC, Alabama Power Company proposes that the Preliminary Area of Potential Effects (APE) for the Warrior River Project (Smith and Bankhead Hydroelectric Projects) be defined as "the respective FERC Project Lands where there will be ground disturbance."

William S. Gardner

U.S. Army Corps of Engineers

Based on further discussion here, it turns out that we have no historic properties that are affected by the Bankhead L&D, upstream or down and so do not, at this time, see a driving need to attend the session on November 15th. I would appreciate being kept on the cultural resources list since we may have further comment on the Coosa projects.

Should a call for cultural resources survey of lands owned in fee simple by the Corps be made, it should be made clear that these projects have been surveyed and that the AL SHPO concurred with the survey findings. Should such a survey still be a part of the recommended further studies, the applicant, in this case I suppose Alabama Power, would need to provide us an application for an Archaeological Resources Protection Act permit as the instrument of permission to do that survey on any Corps fee simple property. I can serve as a point of contact for further information on the details of that (fairly simple) permitting process.

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