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VIA ELECTRONIC FILING

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

Re: Response to Central Elmore Water and Sewer Authority Comment Letters on the Martin Dam Project (P-349-150)

Dear Secretary Bose:

This letter will respond to the November 1, 2010 and December 16, 2010, letters filed with the Federal Energy Regulatory Commission by the Central Elmore Water and Sewer Authority (CEWSA) concerning Alabama Power Company's Study Plan 11 Final Report submitted to the Commission on September 1, 2010, for the Martin Dam relicensing process. Because CEWSA's letters suggest a misunderstanding of the purpose and scope of Study Plan 11, a brief background of the development of this study plan and final report is appropriate.

At the early stages of the Integrated Licensing Process for the Martin relicensing, Alabama Power requested interested stakeholders to identify issues of concern or interest that may need to be addressed as Alabama Power prepares the Martin relicense application. Through this process, the stakeholders raised a variety of issues that generally could be categorized into approximately 21 different topics, and Alabama Power developed a proposed study plan for each topic. One of these study plans, "Study Plan 11, Water Quantity, Water Use, and Water Withdrawals," was developed in response to several related questions raised by the stakeholders, including the current amount of water being withdrawn from Lake Martin and the correlation with population, limiting future water withdrawals (especially by municipalities), and accommodating/increasing permitted withdrawals for riparian use.

Alabama Power submitted its proposed study plans to FERC on November 17, 2008. In proposed Study Plan 11, Alabama Power described the goals and objectives of the study as follows: "The goal of this study is to produce a white paper detailing Alabama Power Company's (APC) water withdrawal policy, current known water withdrawals from the Martin Project, ecological and navigational flow requirements in the Tallapoosa River basin, and water withdrawal intake locations during droughts, and drought contingency operations at the Martin Project." On March 18, 2009, Alabama Power submitted the Final (Revised) Study Plan (21 studies) based on various comments received and other information generated since the proposed plans were first filed. The Revised Study plan made no changes to Study Plan 11. On April 17, 2009, FERC sent to Alabama Power its study plan determination letter that was based on "staff's review of the revised study plan, comments made on the proposed and revised study plans and

other elements of the record.” FERC’s April 17 letter approved Alabama Power’s Revised Study Plan with limited modification to a few of these plans, but Study Plan 11 was not one of the plans modified in the FERC acceptance letter. Therefore, Study Plan 11 as proposed by Alabama Power was approved by FERC.

Based on FERC’s approval of Study Plan 11, Alabama Power developed and finalized its report on the “Water Quantity, Water Use, and Water Withdrawals” topic. This final report was distributed to stakeholders on August 3, 2010, and Alabama Power included both a detailed summary and a copy of the final report in its updated study report filing submitted to FERC on September 1, 2010.

The summary of the Study Plan 11 final report makes clear the report’s purposes and scope, which are consistent with the proposed study plan approved by FERC. Specific to Alabama Power’s water withdrawal policy, the executive summary states clearly that the report provides a detailed description of the policy, and the body of the report includes this detailed description.

In its letters, CEWSA indicates its understanding that the Study Plan 11 final report proposes a new water withdrawal policy and that Alabama Power is seeking FERC approval of that policy. CEWSA’s understanding of the purpose of the study plan report is mistaken. There is nothing new about the water withdrawal policy described in the study plan report, and it is not “proposed,” as suggested by CEWSA. Alabama Power has had a water withdrawal policy for many years, and CEWSA currently is withdrawing water from Lake Martin in accordance with a FERC-approved 1996 agreement that is consistent with the policy as it existed at that time. For a variety of reasons, including comments and suggestions from FERC staff, Alabama Power revised the policy in 2000, and we have been implementing this revised policy since 2001.¹ The policy described in the final Study Plan 11 report (which is the 2000 revised policy) is also the same policy (including the methodology for calculating water withdrawal impact fees) that was included in Alabama Power’s application for new license for the Warrior River Project (FERC Project No. 2165) filed on July 27, 2005, and the application for new license for the Coosa River Project (FERC Project No. 2146) also filed on July 27, 2005.²

Moreover, CEWSA has been aware of Alabama Power’s current water withdrawal policy, including the compensation methodology, since at least July 20, 2006, when CEWSA attended a meeting with Alabama Power representatives to review the policy. CEWSA’s characterization of this policy as “new” and “proposed” is simply inaccurate. It is neither a new policy nor a proposed policy, but rather a description of a decade old policy that FERC also has been aware of for at least six years and probably longer. Alabama Power is not seeking express FERC approval of the policy. Rather Alabama Power’s purpose in describing the existing policy in the final Study Plan 11 report is to provide stakeholder-requested information about the water withdrawal policy. The final report does not, and the Martin license application will not, request that FERC specifically approve this policy in its order issuing the new Martin license.

¹ Since Alabama Power implemented this policy in 2001, FERC has approved several water withdrawal joint use agreements that apply this water withdrawal policy.

² On March 31, 2010, FERC issued a new license to Alabama Power for the Warrior River Project based on its application that included a discussion of the water withdrawal policy.

CEWSA's letters attempt to raise several deficiencies it sees in the Study Plan 11 Final Report. However, Alabama Power followed the FERC approved-study plan for the "Water Quantity, Water Use, and Water Withdrawals" and the final study report fully addresses all elements of the plan. CEWSA's letters complain that certain subjects are not studied in the final report. CEWSA is correct. But, these subjects were never proposed for study by any Martin relicensing stakeholder, they were never included in any version of Alabama Power's Study Plan 11, and they were not contained in the final FERC-approved study plan. Thus, their exclusion from the final report is hardly unexpected and in no way makes the final report deficient. Moreover, CEWSA has not attempted to meet FERC's regulatory criteria for requesting a study or amending a study plan after it has been accepted by FERC, much less met that criteria.

Despite CEWSA's failure to address FERC's criteria for requesting a study or amending a study plan, Alabama Power has considered CEWSA's comments on Study Plan 11 and the final report. CEWSA has raised no issue that would cause Alabama Power to amend the study plan, present additional information in the final report, or otherwise change our ten year old water withdrawal policy.

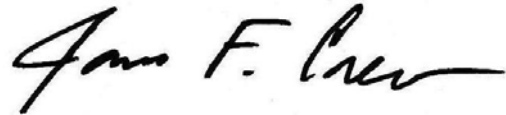
It appears that CEWSA's primary interest in commenting on the Study Plan 11 final report is based on a desire to renew its existing agreement with Alabama Power that enables CEWSA to withdraw water from Lake Martin. That agreement, dated April 3, 1996, expires on June 13, 2013. Alabama Power has communicated to CEWSA its support for a renewal of the agreement so that CEWSA may continue to use Lake Martin as its primary water supply source after the current agreement expires. However, we have made clear to CEWSA that any new water withdrawal agreement will be consistent with our existing policy and not the old policy as requested by CEWSA. As a result of initial communications with CEWSA on this subject, Alabama Power agreed to meet with CEWSA on November 9, 2010, to begin more detailed discussions of a new water withdrawal agreement.

Though Alabama Power remains willing to work with CEWSA toward the development of a new water withdrawal agreement, it has informed CEWSA that the new agreement is not a Martin relicensing issue, and that the Martin relicensing process is not an appropriate forum to negotiate the new contract. After CEWSA submitted its November 1, 2010 comments to FERC that again attempted to inject the new water withdrawal agreement issue into the Martin relicensing process, Alabama Power notified CEWSA that the November 9 meeting would be postponed until after the company filed its Martin preliminary licensing proposal (PLP) and submitted to FERC a response to CEWSA's comments. CEWSA's December 16, 2010 filing incorrectly concludes that Alabama Power "cancelled" the November 9 meeting in response to certain of CEWSA's criticisms of Alabama Power's Martin relicensing process that were expressed in its November 1 letter to FERC. Alabama Power did not cancel the meeting but instead postponed it until after it submitted the Martin PLP and responded to CEWSA's filings.

Alabama Power recognizes CEWSA's right as a stakeholder to participate in the Martin relicensing process and to file comments with FERC concerning its issues of interest or concern. However, CEWSA's participation will not influence how Alabama Power applies its water withdrawal policy to the renewal of the water withdrawal agreement. Alabama Power will work with CEWSA to develop a new agreement that enables its continued joint use of Martin project lands and waters as its primary water supply source. Pursuant to both the existing agreement and FERC's May 31, 1996 order approving CEWSA's joint use of the Martin project, Alabama

Power will submit this agreement to FERC for its approval. Alabama Power fully expects that this agreement can be finalized and approved by FERC long before the existing agreement expires.

Yours very truly,

A handwritten signature in black ink that reads "James F. Crew". The signature is fluid and cursive, with a long horizontal stroke at the end.

James F. Crew
Manager, Hydro Services
Alabama Power Company

cc: Mark Pawlowski, Federal Energy Regulatory Commission (*via email*)
Jennifer Adams, Federal Energy Regulatory Commission (*via email*)
Thomas C. Ingram, Central Elmore Water and Sewer Authority
Kenneth Holt, Central Elmore Water and Sewer Authority
H. Wade Johnson, Central Elmore Water and Sewer Authority
Robert L. Prince, Central Elmore Water and Sewer Authority (*via email*)
Robert J. Morris (*via email*)
J. Theodore Jackson
Earl Reeves, Elmore County Commission (*via email*)
Joe Faulk, Elmore County Commission (*via email*)
Patrick Pinkston