

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

**Warrior River Hydroelectric Project**

**Project No. 2165**

**APPLICATION FOR LICENSE  
FOR MAJOR PROJECT - EXISTING DAM**

**INITIAL STATEMENT**

1. Alabama Power Company (APC or Applicant) applies to the Federal Energy Regulatory Commission (FERC) for a new license for the Warrior River Hydroelectric Project (Project) FERC Project No. 2165, as described in the attached exhibits and Applicant Prepared Environmental Assessment (APEA).

2. The location of the Project is:

State or territory: Alabama

County: Cullman, Tuscaloosa, Walker and Winston  
Counties, Alabama

Township or nearby towns: Arley, Dodge City, Double Springs, Addison, Good  
Hope

Stream or other body of water: Sipsey Fork of the Black Warrior River and the  
Black Warrior River

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

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

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

Mr. Jerry L. Stewart, Senior Vice President  
and Senior Production Officer  
Alabama Power Company  
600 North 18<sup>th</sup> 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. 2165 and is seeking a new fifty (50) 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 exist 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 the Federal Power Commission (predecessor to the Federal Energy Regulatory Commission) in the application of Alabama Power Company for a license under Section 4(e) of the Federal Power Act for the Warrior River Project (Project No. 2165) filed on August 3, 1956. 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 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 of 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 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 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 projects that are 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 July 2004, APC requested from a Water Quality Certification pursuant to Section 401(a) of the Clean Water Act from ADEM. On July 5, 2005, ADEM issued a Water Quality Certification for the Warrior Project. Additional information on the conditions of the Water Quality Certification is presented in the APEA.

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

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

None of the Project facilities that are the subject of this application are owned or operated by the federal government. However, as explained in greater detail in this application, the Bankhead development utilizes the surplus water from the U.S. Army Corps of Engineers' (USACE) Bankhead Lock and Dam (United States Lock and Dam

No. 17 on the Black Warrior River). The Applicant is the owner of the powerhouse and non-overflow section of the dam (between the powerhouse and the spillway). All other facilities at the Bankhead development including the dam, spillway, navigation lock, and reservoir are owned and operated by the USACE.

The U.S. Forest Service has 2,691 acres (inundated and non-inundated) of the Bankhead National Forest within the FERC Project boundary at the Smith development.

**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:

Cullman, Walker, Winston, Jefferson and Tuscaloosa counties, 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 Applicant is aware of no such cities, towns or similar political subdivisions.

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

Jasper and Tuscaloosa, Alabama

(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 provided by FERC staff as the Cultural Resources Restricted Service list for the Coosa and Warrior relicensing. Each tribe was contacted and invited to participate.

Debbie Thomas  
Tribal Representative  
Alabama-Coushatta Tribe of Texas  
Route 3, Box 645  
Livingston, TX 77351

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

Delores Herrod  
Tribal Representative  
Kialegee Tribal Town of the Muscogee  
(Creek) Nation  
P.O. Box 332  
108 N. Main Street  
Wetumka, OK 74883

Joyce Bear  
Tribal Historic Preservation Officer  
Muscogee (Creek) Nation of Oklahoma  
P.O. Box 580  
Highway 75 & Loop 56  
Okmulgee, OK 74447

Kenneth Chambers, Principal Chief  
Seminole Nation of Oklahoma  
P.O. Box 1498  
Seminole, OK 74884

W.S. Steele  
Ah-Tah-Thi-Ki Museum  
HC 61, Box 21 A  
Clewiston, FL 33440

Charles Coleman  
Tribal Warrior  
Thlopthlocco Tribal Town  
Rt. 1 Box 190\_A  
Weleetka, OK 7488

Terry Cole  
Cultural Preservation Committee  
Choctaw Nation of Oklahoma  
P.O. Drawer 1210  
16th and Locust  
Durant, OK 74702

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

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 Warrior River Project is executed this 22<sup>nd</sup> day of July, 2005 in the State of Alabama, County of Jefferson, by Jerry L. Stewart, 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

Jerry L. Stewart

Subscribed and sworn to before me, a Notary Public of the State of Alabama, this 22<sup>nd</sup> day of July, 2005.

Sharon G. Pitre  
Notary Public

My commission expires: 2/27/06



## 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 Warrior Relicensing Process.

Dated this 27<sup>th</sup> day of July, 2005.

B.K. Lovett

B.K. Lovett

## Distribution List

Joe Addison  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street  
Montgomery, AL 36130

Jim Bain  
Logan Martin Lake Protection  
Association  
2544 Willow Road  
Alex City, AL 35010

Mike Akridge  
General Manager Hydro  
Southern Company Services  
600 North 18th Street  
P.O. Box 2641  
Birmingham, AL 35291-8180

Joyce Bear  
Tribal Historic Preservation Officer  
Muscogee (Creek) Nation of Oklahoma  
P.O. Box 580  
Highway 75 & Loop 56  
Okmulgee, OK 74447

Bob Allen  
United States Army Corp of Engineers  
109 Saint Joseph Street  
P.O. Box 2288  
Mobile, AL 36628-0001

Jim Beason  
President  
Smith Lake Civic Association  
64 Matthew Drive  
Jasper, AL 35503

Pres Allinder  
Director  
Alabama Department of Public Health  
P.O. Box 303017  
RSA Tower  
Montgomery, AL 36130-3017

Toby Bennington  
Director of Regional and Community  
Planning  
Regional Planning Commission of  
Greater Birmingham  
2112 11th Ave South, Suite 220  
Birmingham, AL 35205

John Ammons  
Alabama Department of Economic and  
Community Affairs  
401 Adams Avenue  
P.O. Box 5690  
Montgomery, AL 36103-5690

Deb Berry  
Smith Lake Environmental Preservation  
Committee  
860 Alford Avenue  
Hoover, AL 35226

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

Elizabeth Brown  
Division Director  
Alabama Department of Archives and  
History  
468 South Perry Street  
Montgomery, AL 36130-0900

Prescott Brownell  
National Marine Fisheries Service  
219 Ft. Johnson Rd.  
Charleston, SC 29412

Ray Cline  
Federation of Fly Fishers  
2705 Trevor Drive SE  
Huntsville, AL 35802-1251

Robert A. Buettner  
Individual  
797 County Road 3938  
Arley, AL 35541

Terry Cole  
Cultural Preservation Committee  
Choctaw Nation of Oklahoma  
P.O. Drawer 1210  
16th and Locust  
Durant, OK 74702

Dan Catchings  
Supervisor of District 2  
Alabama Department of Conservation  
and Natural Resources  
P.O. Box 158  
Eastaboga, AL 36260

Charles Coleman  
Tribal Warrior  
Thlopthlocco Tribal Town  
Rt. 1 Box 190\_A  
Weleetka, OK 74880

Kenneth Chambers  
Principal Chief  
Seminole Nation of Oklahoma  
P.O. Box 1498  
Seminole, OK 74884

Stan Cook  
Chief of Fisheries  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street  
Montgomery, AL 36130

Susan Cielinski  
Biologist  
United States Fish and Wildlife Service  
1875 Century Blvd.  
Suite 200  
Atlanta, GA 30345

Michael Cook  
United States Forest Service  
2946 Chestnut Street  
Montgomery, AL 36107

Rick Claybrook  
Supervisor of District 4  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street  
Montgomery, AL 36130

Tom Counts  
District Wildlife Biologist  
United States Forest Service  
PO Box 278  
Double Springs, AL 35553

Bill Curtis  
East Alabama Regional Planning and  
Development Commission  
P.O. Box 2186  
Anniston, AL 36202

P. Flannelly  
Malcolm Pirnie, Inc.  
2170 Highland Avenue  
Suite 250  
Birmingham, AL 35205

Pat DeMotte  
Logan Martin Lake Protection  
Association  
275 Cove Drive  
Pell City, AL 35128

Keith Floyd  
Alabama Department of Conservation  
and Natural Resources  
21438 Harris Station Road  
Tanner, AL 35671

Charles Dixon  
Neely Henry Lake Association  
1208 Mohawk Bluff Drive  
Ohatchee, AL 36271

John D. Free  
Alabama Public Service Commission  
P.O. Box 304260  
Montgomery, AL 36130-4260

Jeff Duncan  
Southeast Rivers Program Manager  
National Park Service  
175 Hamm Road  
Chattanooga, TN 37405

Jamie Freeman  
American Motorcycle Association  
81 Arrowhead Circle  
Jasper, AL 35504

John Eisenbarth  
President  
Trout Unlimited - Riverside Chapter  
17027 Highway 69 North  
Jasper, AL 35504

Joel Gardner  
Hydro Coordinator  
United States Forest Service  
138 Oakmont  
Heflin, AL 36264

Mike Eubanks  
Biologist  
United States Army Corp of Engineers  
109 Saint Joseph St  
Mobile, AL 36628

Jeff Garner  
Alabama Department of Conservation  
and Natural Resources  
350 Co. Rd. 275  
Florence, AL 35633

Joe Faulk  
Chair  
Elmore County Commission  
100 East Commerce Street  
Wetumpka, AL 36092

Bill Garnett  
Coosa River Paddling Club  
6049 Forest Grove Drive  
Montgomery, AL 36117

Art Goddard  
United States Forest Service  
2946 Chestnut Street  
Montgomery, AL 36107-3010

Tim Gothard  
Executive Director  
Alabama Wildlife Federation  
46 Commerce Street  
Montgomery, AL 36104

Chris Greene  
District Supervisor  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street, Room 658  
Montgomery, AL 36130-1456

Tom Groce  
United States Army Corp of Engineers  
P.O. Box 2288  
Mobile, AL 36628-0001

Keith Guyse  
Assistant Chief of Wildlife Section  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street  
Montgomery, AL 36130-1456

April Hall  
Watershed Restoration Specialist  
Alabama Rivers Alliance  
2027 2nd Avenue North  
Suite A  
Birmingham, AL 35203

Janice Hamilton  
Director - Energy Division  
Alabama Public Service Commission  
100 North Union Street, Suite 950  
P.O. Box 991  
Montgomery, AL 36101-0991

Bruce Hamrick  
Walker County Commission  
P.O. Box 1447  
Jasper, AL 35502-1447

Darryl Harley  
United States Forest Service  
2946 Chestnut Street  
Montgomery, AL 36107

Patric Harper  
United States Fish and Wildlife Service  
Department of the Interior  
P.O. Drawer 1190  
Daphne, AL 36526

Stacye Hathorn  
Alabama Historical Commission  
468 South Perry Street  
Montgomery, AL 36117

Delores Herrod  
Tribal Representative  
Kialegee Tribal Town of the Muscogee  
(Creek) Nation  
P.O. Box 332  
108 N. Main Street  
Wetumka, OK 74883

Craig Hesterlee  
United States Environmental Protection  
Agency  
Atlanta Federal Center-15th Floor  
61 Forsythe Street  
Atlanta, GA 30303

Dow Johnston  
Engineer  
Alabama Office of Water Resources  
401 Adams Avenue, Suite 434  
Montgomery, AL 46104

Jim Hillhouse  
Trout Unlimited  
508 Sharpsburg Circle  
Birmingham, AL 35213-1720

Kellie Johnston  
Facilitator  
Black Warrior Clean Water Partnership  
1731 1st Avenue North  
Suite 200  
Birmingham, AL 35203

Jon Hornsby  
Environmental Coordinator  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street  
Montgomery, AL 36130-1456

Bert Jones Jr.  
Individual  
174 County Road 129  
Bremen, AL 35033

Jim Howard  
Conservation Director  
Alabama B.A.S.S. Federation  
501 Five Mile Road  
Eufaula, AL 36027

Paul Kennedy  
Cawaco RC&D Council Project Office  
2112 Eleventh Avenue South  
Suite 220  
Birmingham, AL 35205

Bob Huffaker  
Captain  
Alabama Marine Police  
64 North Union Street  
Montgomery, AL 36130-1451

Don Kirkland  
Chief Engineer  
Birmingham Industrial Water Board  
P.O. Box 830110  
Birmingham, AL 35253

Bobby Ingram  
Resident/Homeowner  
311 County Road 610  
Cedar Bluff, AL 35959

Tom Littlepage  
Alabama Office of Water Resources  
401 Adams Avenue  
Suite 434  
Montgomery, AL 46104

Ray Luce  
Georgia Historic Preservation Division  
57 Forsyth Street, NW  
Atlanta, GA 30303

Yawanna Nabors McDonald  
Malcolm Pirnie, Inc.  
2170 Highland Avenue  
Suite 250  
Birmingham, AL 35205

Mary Sue Olson  
Lake Mitchell Home Owners and Boat  
Owners Association  
245 Co Rd 549  
Verbana, AL 36091

Jim McIndoe  
Alabama Department of Environmental  
Management  
P.O. Box 301463  
Montgomery, AL 36130

Bob Pasquill  
United States Forest Service  
2946 Chestnut Street  
Montgomery, AL 36107-3010

Jerry Moss  
Supervisor  
Alabama Department of Conservation  
and Natural Resources  
District 3 Office  
PO Box 305  
Northport, AL 35476

Jeff Powell  
United States Fish and Wildlife Service  
Department of the Interior  
P.O. Drawer 1190  
Daphne, AL 36526

Edward Munson  
Malcolm Pirnie, Inc.  
2170 Highland Avenue South  
Birmingham, AL 35205

Karen Pulliam  
United States Forest Service  
P.O. Box 278  
Double Springs, AL 35553

Ellen Nabors  
Individual  
620 County Road 112  
Centre, AL 35960

Al Read  
Individual  
2903 North Woodridge Rd.  
Birmingham, AL 35223

Joe Nicholson  
Recreational Unit Leader  
United States Forest Service  
2946 Chestnut Street  
Montgomery, AL 36107

Matt Reid  
Executive Director  
Coosa River Basin Initiative  
408 Broad Street  
Rome, GA 31061

Steven J. Rider  
District Fisheries Biologist  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street  
Suite 658  
Montgomery, AL 36130

Bruce Shupp  
National Conservation Director  
BASS, Inc.  
5845 Carmichael Road  
Montgomery, AL 36117

Robert Taylor  
Alabama Public Service Commission  
100 North Union Street  
Montgomery, AL 36101

Dave Sligh  
Southeastern Field Director  
American Rivers  
424 Georgia Ave  
Suite 2A  
Chattanooga, TN 37403

Debbie Thomas  
Tribal Representative  
Alabama-Coushatta Tribe of Texas  
Route 3, Box 645  
Livingston, TX 77351

Adam R. Snyder  
Watershed Leadership Director  
Alabama Rivers Alliance  
2027 Second Avenue North  
Suite A  
Birmingham, AL 35203

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

W. S. Steele  
Ah-Tah-Thi-Ki Museum  
HC 61, Box 21 A  
Clewiston, FL 33440

Dan Thompson  
Statewide Supervisor  
Alabama Department of Conservation  
and Natural Resources  
64 North Union Street  
Montgomery, AL 36130-1456

Jon Strickland  
Recreation Programs Manager  
Alabama Department of Economic and  
Community Affairs  
401 Adams Avenue  
Montgomery, AL 36130-5690

Ben Tingle  
Smith Lake Environmental Preservation  
Committee  
933 Crawford Road  
Mt. Olive, AL 35117

Judy Takats  
Program Officer  
World Wildlife Fund  
2021 21st Avenue South  
Suite 200  
Nashville, TN 37212

Helen Toth  
Alabama Water Watch  
745 County Road 572  
Centre, AL 35965

Michael Toth  
Coosa River Basin Initiative  
745 County Road 572  
Centre, AL 35965

Isabella Trussell  
Logan Martin Lake Protection  
Association  
208 Viewpoint Circle  
Pell City, AL 35128

Larry Watts  
Regional Planning Commission  
Magnolia Office Park, Suite 220  
2112 11th Avenue South  
Birmingham, AL 35205

Plez West  
United States Forest Service  
2946 Chestnut Street  
Montgomery, AL 36107-3010

Duane Winters  
Bureau of Land Management  
411 Briarwood Drive  
Suite 404  
Jackson, MS 39206

Diana Woods  
Wetlands Section / Region 4  
United States Environmental Protection  
Agency  
61 Forsyth Street, SW  
Suite 13th  
Atlanta, GA 30303

Majali Yahia  
Malcolm Pirnie, Inc.  
2170 Highland Avenue South  
Birmingham, AL 35205