

April 30, 2025

VIA ELECTRONIC FILING

Project No. 2628-066
R.L. Harris Hydroelectric Project
Comments on Final Environmental Impact Statement (FEIS)

Ms. Debbie-Anne Reese
Secretary
Federal Energy Regulatory Commission
888 First Street N.
Washington, DC 20426

Dear Secretary Reese,

Alabama Power Company (Alabama Power) is the Federal Energy Regulatory Commission (FERC or Commission) licensee for the R.L. Harris Hydroelectric Project (Harris Project) (FERC No. 2628). Alabama Power filed its Final License Application (FLA) for the Harris Project on November 23, 2021.¹ On November 21, 2024, FERC issued a draft Environmental Impact Statement (DEIS) for the license application. On or before the comment deadline of February 19, 2025, Alabama Power and numerous other stakeholders and regulatory agencies filed comments on the DEIS. On March 31, 2025, FERC issued a final Environmental Impact Statement (FEIS).

Alabama Power greatly appreciates FERC Staff's thorough review and consideration of comments on the DEIS. Alabama Power knows FERC Staff is currently working towards the issuance of the new Harris license, and in an effort to help ensure that the license is as accurate and functionally effective as possible, we provide the following comments for Staff's consideration.

Article 406 – Project Minimum Flows

Draft Article 406 states “The project minimum flow requirement may be temporarily modified if required by operating emergencies beyond the control of the licensee, or for short periods, of up to 3 weeks, upon mutual agreement among the licensee, the Alabama Department of Environmental Management, the Alabama Department of Conservation and Natural Resources, and the U.S. Fish and Wildlife Service (collectively, the agencies).” It goes on to state that “the project minimum flow requirement may be temporarily modified for short periods (e.g., plant maintenance), of up to 3 weeks, after mutual agreement among the licensee and the agencies. After concurrence from the agencies, the licensee must notify the

¹ Accession Nos. 20211123-5074, -5075, -5076, -5077, -5078, -5079.

Commission within 14 days of the onset of the planned deviation and file a report with the Secretary of the Commission as soon as possible, but no later than 30 days after the conclusion of the planned deviation.”

Alabama Power requests this language be modified to say, “the project minimum flow requirement may be temporarily modified if required by operating emergencies beyond the control of the licensee, for plant maintenance, or for short periods, of up to 3 weeks, upon mutual agreement among the licensee, the Alabama Department of Environmental Management, the Alabama Department of Conservation and Natural Resources, and the U.S. Fish and Wildlife Service (collectively, the agencies),” and “the project minimum flows may be temporarily modified for a period of up to 3 weeks, for plant maintenance, or after mutual agreement among the licensee and the agencies. The licensee must notify the agencies and the Commission within 14 days of the onset of the planned deviation and file a report with the Secretary of the Commission as soon as possible, but no later than 30 days after the conclusion of the planned deviation.”

This language is consistent with the minimum flow requirement at Alabama Power’s Smith development (Warrior River Project [FERC No. 2165] Article 407).² It is neither feasible nor practical to build in the time required for agency consultation prior to conducting routine plant maintenance. Furthermore, maintenance must take place when it is needed, and when power system and hydrologic conditions allow, regardless of whether the agencies agree to it in advance. Alabama Power notes that draft Article 408 includes a provision for developing, in consultation with agencies, the operating procedures to be implemented outside normal operation, which includes periods of maintenance on Unit 1 or the minimum flow unit, when flows may be interrupted.

Article 409 – Water Quality Enhancement and Monitoring Plan

Alabama Power requests the language “and the Alabama Department of Conservation and Natural Resources’ (Alabama DCNR) 10(j) recommendation 9” be removed from subpart 4 of Draft Article 409. Recommendation 9 in Table 5-1 of the FEIS references ADCNR’s recommendation for real time access to discharge, temperature, and DO data in the forebay and tailrace. As discussed in previous comment letters, water quality data collected in accordance with Alabama Power’s accredited³ monitoring program must be subject to a QA/QC review as well as required peer review protocols. Providing DO and temperature data in real time would be inconsistent with these established procedures and protocols.

In response to Alabama Power’s comments to this effect, FERC references the practices of USGS in providing access to real time “provisional” data prior to completion of the QA/QC process for the data.

² 130 FERC ¶ 62,271

³ The National Environmental Laboratories Accreditation Conference (NELAC) was established by the EPA in 1995 to bring consistency in environmental laboratory accreditation programs. The NELAC Institute (TNI) created the National Environmental Laboratory Accreditation Program (NELAP) and the National Environmental Field Activities Program (NEFAP) as a means to improve the quality and consistency of environmental data throughout the country. Alabama Power’s water field group is accredited to ISO/IEC 17025:2017 and the NELAC Institute’s (TNI) Field Sampling and Measurement Organization (FSMO) through A2LA (Certificate Number 4117.01).

FERC states that if Alabama Power provided data in a similar manner, it would enable stakeholders to evaluate project effects shortly after they occur and not “delay the identification of any potential need for corrective action.” (FEIS at N-12). First, the USGS is a research organization and is not subject to corrective action measures or third-party lawsuits for any “provisional” data it publishes in real time. Second, Alabama Power monitors water quality closely, on a day-to-day basis, and has procedures in place to ensure aeration systems and monitors are working properly and corrective actions are taken, as needed, throughout the monitoring season. Third, the Alabama Department of Environmental Management (ADEM) is the agency responsible for regulating water quality within the State of Alabama. ADEM addresses water quality concerns in the Clean Water Act § 401 Water Quality Certifications (WQC) it issues. If ADEM had determined that such access to real time monitoring data was necessary, it would have included such requirements in the WQC issued for the Harris Project. Furthermore, the evaluation of “project effects” and “any potential need for corrective actions” (such as the addition or enhancement of an aeration system) should be determined by ADEM as part of its review of the annual reports required by subpart 5 of draft Article 409.

Finally, neither ADCNR nor FERC have provided any scientific evidence or project purpose that supports the need for access to the water quality monitoring data in real time. Furthermore, the need to monitor in the forebay has yet to be determined. Without the substantial evidence necessary to support this measure, ADCNR’s 10(j) recommendation should be dismissed as inconsistent with the Federal Power Act, and the requirement in Draft Article 409 to include access to real time monitoring data for DO and temperature in the tailrace and forebay should be removed.⁴

Article 411 – Harris Lake Spring Fish Spawning Enhancement Program

Alabama Power requests the language “and reported to the Commission at least 10 days prior to initiating the stable water levels” be removed from this license article. This notification requirement is not included in similar license articles on Alabama Power’s other projects.⁵ As FERC is aware, Alabama Power has been voluntarily implementing a spring fish spawning program on Lake Harris, in consultation with ADCNR, for several years. As the table below shows, the time between when ADCNR makes its request and when they want implementation to begin is typically less than 10 days. If the referenced language remains in the final license article, it will place an unnecessary requirement on ADCNR to request stabilization dates at least 10 days prior to implementation and may result in missing the optimal spawning window.

⁴ See Alabama Power’s Comments on Draft Environmental Impact Statement (Feb. 19, 2025), at A-2 through A-4 (Accession No. 20250219-5135).

⁵ Warrior River Project (130 FERC ¶ 62,271) Article 411; Coosa River Project (143 FERC ¶ 61,249, as revised by 155 FERC ¶ 61,080) Article 410.

Table 1: Number of Days Between When the ADCNR Requested Reservoir Stabilization Begin on Harris Reservoir and the Requested Start Date

Date Requested	Requested Start Date	No. of Days in Between Request and Start
3/19/2012	3/20/2012	1
4/11/2013	4/11/2013	0
4/22/2014	4/23/2014	1
4/13/2015	4/14/2015	1
4/4/2016	4/11/2016	7
4/4/2017	4/10/2017	6
4/2/2018	4/9/2018	7
4/9/2019	4/15/2019	6
3/24/2020	4/5/2020	12
3/29/2021	4/5/2021	7
4/4/2022	4/11/2022	7
3/31/2023	4/7/2023	7
4/1/2024	4/6/2024	5
3/27/2025	4/5/2025	9
Average		5

Article 415 – Wildlife Management Plan

Throughout the FEIS, FERC Staff discusses recommendations that the final Wildlife Management Plan (WMP) include various provisions for the protection of federally listed threatened and endangered species. The draft license article in Appendix J includes the various provisions but introduces some confusion as to what must be filed for Commission approval as part of the final WMP. For example, the analysis for the red-cockaded woodpecker included within the Biological Assessment (Final EIS Appendix D) states that:

Conducting additional surveys, as appropriate, that are timed appropriately to identify potentially suitable habitats at the project in the areas listed above, and consulting with FWS and Alabama DCNR regarding the results and the need to develop red-cockaded woodpecker protection measures, as well as implementing the proposed APP would allow Alabama Power to document any signs of red-cockaded woodpecker use of the project area and avoid any adverse effects during a new license term.

The draft license article, however, states that the WMP must include measures to “file...survey methods and results...for inclusion in the final WMP.”

The discussion in the biological assessment makes clear the intent to include provisions for conducting surveys and, therefore, survey methods and results would not be available for inclusion in the final WMP but would only be available following the completion of the survey. The draft license article includes this type of confusion for several other species.

Additionally, as noted on N-34 of Appendix N, Commission Staff has requested clarification on DOI/FWS's recommendations to limit tree removal activities to the protective window of October 1 to March 14 and has tentatively edited draft article 415 to clarify the active and inactive periods. Further, the draft license article does not make clear when surveys are not required.

In order to provide clarity, Alabama Power has attached a clean and redline version of Draft Article 415 (DEIS Article 413) Wildlife Management Plan, which also incorporates time-of-year restriction dates based on DOI/FWS's comments on the DEIS.

Project Lands Removals

Alabama Power is disappointed that FERC Staff recommend that the project lands proposed for removal continue to be included in the project boundary. Alabama Power developed its project lands proposal over several years through the Harris Action Team (HAT) 4 working group, in which FERC Staff participated. FERC Staff had many opportunities prior to the FEIS to provide comments on the project lands proposal, beginning with the FERC approved study plan. In that study plan, one of the stated goals was to "identify lands to be added to, or removed from, the current Harris Project Boundary and/or be reclassified" and that all proposed land changes, according to the study plan, would "consider the location of any threatened or endangered species (T&E), wetlands, and cultural resources". Through implementation of the study plan, the lands proposed for addition, reclassification, or removal were first presented to FERC and stakeholders in 2019. The lands proposed for removal did not change from then until the Final License Application (FLA) in 2021, and no comments in opposition to the removal of project lands were provided by federal or state agencies nor any other stakeholder participating in the relicensing process.

FERC Staff provided comments on the project lands proposal two times during the relicensing process. The first was in comments on the draft Project Lands Evaluation Report (distributed in April 2020), in regard to maps and GIS data. The second was in questions/comments submitted by FERC Staff to Alabama Power prior to the Initial Study Report meeting held in April 2020, where FERC Staff indicated that Alabama Power should explain its rationale for adding, removing, or reclassifying project lands and asked if terrestrial and cultural resource surveys were being conducted on lands proposed for removal. As stated in Alabama Power's response, the results of the various other studies conducted during relicensing (e.g., recreation surveys, T&E surveys, cultural resource surveys) were used to inform its final project lands proposal. The rationale for adding, removing, or reclassifying project lands was first included in the Preliminary Licensing Proposal (Table 11-11) filed in June 2021.⁶ There were no comments from FERC Staff on the project lands

⁶ Accession No. 20210629-5069.

proposal in the PLP, and Alabama Power included the same table in Exhibit E of the FLA (Table 13-6) filed in December 2022.⁷

While the reasoning for each individual tract proposed to be removed has been provided, Alabama Power notes that the overall goal of the Project Lands Evaluation effort is to rebalance project lands around Harris, which requires evaluating projects lands as a whole, as well as piece by piece. In the FEIS, FERC Staff states that these lands should not be removed because the 1973 license required Alabama Power to expand the project boundary to include additional lands necessary for project purposes beyond the normal full pool elevation. However, the requirement in the 1973 license was intended to address agency comments at that time regarding an additional buffer around the reservoir, which ultimately led to the requirement in Article 50 to include what has become to be known as the “scenic easement”.

Since the 1973 license was issued, other than adding the “scenic easement”, Alabama Power has made changes to the project boundary on three occasions. First, the 1981 Land Use Plan included an additional 59 acres associated with additional recreation areas.⁸ The 1988 Wildlife Mitigation Plan added an additional 780 acres around Lake Harris for wildlife enhancement.⁹ Finally, the 1995 Land Use Plan rebalanced the project lands around Lake Harris in order to increase recreation opportunities and hunting lands while minimizing land use conflicts and removing residential lands from the project.¹⁰ As FERC Staff recognized in the FEIS, the lands included in the baseline project boundary serve a project purpose under the *existing* license. Alabama Power approached relicensing in much the same way that it approached the 1995 Land Use Plan, as an opportunity to rebalance its land holdings around Lake Harris and include only those lands needed for project purposes in the *new* license.

Alabama Power has provided ample justification as to why these specific lands no longer serve a project purpose, and FERC has provided no justification as to why they do. Nevertheless, because FERC Staff indicate “there is little information on record that supports removal of these project lands”, Alabama Power provides the following additional information in regards to its project lands proposal and reiterates that Alabama Power’s proposal balances its land holdings based on relicensing studies and Project purpose for the next license term.

As indicated in the final Phase 1 Project Lands Evaluation Study Report, Alabama Power is proposing to no longer have “quasi-public” recreation sites within the project boundary at Harris. Several tracts are proposed to be removed or reclassified because they are quasi-public recreation sites under the existing license. Land Parcels R3 (approximately 19 acres) and R5 (approximately 20 acres) are existing quasi-public recreation sites in the 1995 Land Use Plan that were never developed and are proposed to be

⁷ A revised Exhibit E was filed with Alabama Power’s response to an additional information request (AIR) to correct some minor discrepancies noted in the August 29, 2022 AIR.

⁸ 28 FERC ¶ 61,370

⁹ Accession No. 19880805-0321; this plan also added the project lands at Skyline WMA.

¹⁰ 84 FERC ¶ 62,263

removed for the reasons provided in Table 13-6. Land Parcels RC5 (approximately 61 acres) and RC8 (approximately 51 acres) are also existing quasi-public recreation sites that were never developed and are proposed to be reclassified from "Recreation" to "Natural/Undeveloped" for the reasons provided in Table 13-5.

Part of the rebalancing effort also looked at other recreation lands at the project and, using the results from the Recreation Evaluation Report, Alabama Power is proposing to remove and/or reclassify several tracts of recreation lands. As indicated in Table 13-6, Land Parcel R2 has been in the project since the license was issued in 1973 and historically has been identified as "Road End #4" (out of the 14 original "public access corridors" in Exhibit R of the 1973 license). Alabama Power leased this parcel, along with several others, to Randolph County in the 1980s, but, as indicated in various filings during this time, Randolph County never developed these "road end" facilities. Instead, the ADCNR and Alabama Power ultimately developed 6 of the road ends through cooperative agreement. Because Land Parcel R2 (Road End #4) has not been needed under the existing license and was not identified as a need through the relicensing process, it should be removed. Additionally, Land Parcels R7 and R8 are classified as Recreation lands in the existing license but are proposed for removal. These lands were reserved for future recreation use; however, based on the Recreation Evaluation report and through the Project Lands Evaluation, Alabama Power proposed to develop other recreation sites to better balance recreation use at the Project. With Alabama Power's project lands proposal, future recreation needs will be served through the remaining 310 acres of Recreation lands within the project boundary.

Much of the rationale that FERC Staff uses to recommend that the lands not be removed is that the lands continue to provide wildlife habitat and protect cultural resources that need further evaluation. However, as indicated in its comments on the DEIS, Alabama Power is committed to consulting with appropriate parties regarding any potential impacts to any historic properties prior to any ground disturbing activities or selling the property. Further, as stated in the FEIS, removal of Project lands is not considered an adverse effect under the National Historic Preservation Act. As for wildlife habitat, including summer roosting or forage habitat for federally listed bats, FERC Staff is correct that Alabama Power assumes that Indiana bat and northern long-eared bat are present throughout the project boundary. But, as stated in its comments on the DEIS, removing land from the project boundary is not an action that could be considered a "take" of these species. Furthermore, in order to offset the removal of Natural/Undeveloped land, Alabama Power is proposing to add and reclassify existing project land for a net addition of over 400 acres of Natural/Undeveloped land. Alabama Power is also proposing to add an additional 210 acres of Hunting lands, which provide the same habitat protection as Natural/Undeveloped land. Finally, it is inconsequential that some of the lands proposed for removal have shoreline designated as "sensitive resources" as the shoreline (including the "scenic easement") will remain in the project boundary and any activities along the shoreline will be subject to Alabama Power's permitting program, including an evaluation of the effects of the permitted activity on sensitive resources.

Alabama Power would like to reiterate that the removals should not be considered in a vacuum but rather as part of an overall rebalancing of Alabama Power's land holdings around Lake Harris. If the Commission

does not accept the project land removals, then the project land additions have no project purpose, as they were intended to offset the removal of project land. If this is the case, then the Commission should only consider the project land reclassifications in its final licensing decision. To be clear, Alabama Power is only proposing to add project lands in order to offset the land removed as part of an overall rebalancing of project lands around Harris. If FERC does not approve removing project lands, no lands should be added.

If there are any questions concerning this filing, please contact me at arsegars@southernco.com or 205-257-2251.

Sincerely,



Angie Anderegg
Harris Relicensing Project Manager

Attachment 1 – Redline Version of Proposed Article 415 (DEIS Article 413)

Attachment 2 – Clean Version of Proposed Article 415 (DEIS Article 413)

ATTACHMENT 1
REDLINE VERSION OF PROPOSED ARTICLE 415 (DEIS ARTICLE 413)

Draft Article 415 (draft EIS Article 413). Wildlife Management Plan. Within one year of license issuance, the licensee must file, for Commission approval, a final Wildlife Management Plan (WMP) to protect and enhance wildlife habitat on project land at Harris Lake and the Skyline Wildlife Management Area (WMA). To protect wildlife, plants, and their habitats, including federally listed species, the WMP must be approved by the Commission prior construction of the Highway (Hwy) 48 Day Use Park at Harris Lake, and implementation of regular forest management activities, including timber harvests and prescribed burns.

The final WMP must include the following parts of the draft WMP filed on November 21, 2024:

- (1) Descriptions of land uses and existing habitats on project land at Harris Lake and Skyline WMA;
- (2) A description of the wildlife management objectives and associated methods to protect and enhance native vegetation and wildlife habitat through management of: (a) shorelines at Harris Lake; (b) forests on project land at Harris Lake and Skyline WMA; (c) food plots and other permanent openings on project land at Harris Lake and Skyline WMA; (d) the Pollinator Plots at Little Fox Creek on Harris Lake; and (e) public hunting areas on project land at Harris Lake and Skyline WMA; and
- (3) Specific best management practices (BMPs) that reduce or prevent runoff, erosion, turbidity, and sedimentation that may impact streams and waterbodies on project lands during timber management activities, to include, but not be limited to the following Alabama Forestry Commission forestry BMPs: (a) establish streamside management zones, on each side of a perennial or intermittent stream with a minimum of 35 feet from a definable bank, or 50 feet if appropriate for wildlife protection; (b) avoid stream crossings by roads, skid trails, or firebreaks, when possible; (c) when unavoidable, use the fewest possible stream crossings located where the bank and streamside management zones would be least disturbed; and (d) properly plan and locate roads.

The final WMP plan must also include the following measures to identify and protect federally listed and other special status species on project land at Harris Lake and/or Skyline WMA:

(1) *Red-Cockaded Woodpecker*

- (a) ~~The final WMP must include~~ a strategy for surveying ~~and reporting survey results for~~ red-cockaded woodpeckers at Harris Lake, developed, in consultation with the U.S. Fish and Wildlife Service (FWS) and the Alabama Department of Conservation and Natural Resources (Alabama DCNR). ~~The strategy must include:~~

- ~~(i). Surveying~~ locations ~~of~~ open pine stands containing pine trees with a diameter at breast height equal to or greater than 10 inches, ~~and 60 years or older~~ within: (i) the 160-acre natural pine and other timber management sites on the southwestern side of Harris Lake prior to prescribed burns and timber harvests; (ii) mature/over mature pine stands at Harris Lake prior to harvesting; (iii) the area proposed for the Hwy 48 Day Use Park prior to removing mature pines and commencing construction; and (iv) any pine forests where future recreation sites or amenities are proposed at Harris Lake (i.e., prior to clearing/construction);

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(ii) Provisions to: (i) document and submit the red-cockaded woodpecker survey results to FWS and Alabama DCNR, and (ii) consult with these agencies to develop measures, if needed, to protect any identified red-cockaded woodpeckers or suitable/occupied habitat, such as timing the prescribed burns based on red-cockaded woodpecker use/activity in the area;

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(iii) A provision to file with the Commission red-cockaded woodpecker survey reports, including survey methods and results, documentation of consultation with FWS and Alabama DCNR, and any proposed red-cockaded woodpecker protection measures, and

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(iv) An implementation schedule for conducting surveys and reporting results.

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(2) Gray Bat, Indiana Bat, Northern Long-Eared Bat, and Tricolored Bat

(a) The final WMP must include provisions to:

(i) No more than 5 years prior to continuing tree removal activities, including timber harvests on project land at Harris Lake and Skyline WMA, tree removal associated with the construction of recreation sites/amenities and undertaking any other project-related activity with a potential impact to gray, Indiana, northern long-eared, and/or tricolored bats, use FWS's current gray bat survey guidance, and FWS's Range-Wide Indiana Bat and Northern Long-eared Bat Survey Guidelines (2024) which also applies to the tricolored bat,¹ (or use updated FWS bat survey protocols, as they may become available), to conduct a habitat assessment for Gray Bat, Indiana Bat, Northern Long-Eared Bat, and Tricolored Bat.

(ii) If habitat is present, implement FWS published time-of-year restrictions (i.e., conduct the activity from October 1 to March 14), when feasible, for avoiding impacts. (ii) If following time-of-year restrictions is not feasible, conduct surveys in accordance with published USFWS guidance and prepare survey reports for:

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(1) Caves and other karst features (i.e., among the 236 caves) within the project boundary at Skyline WMA, to identify hibernacula and summer roost caves occupied by the gray bat, and hibernacula occupied by the Indiana bat, northern long-eared bat, and tricolored bat, that are within or near lands proposed for project-related tree removal activities and are expected to be impacted or in proximity of an expected impact to these bat species;

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(2) Land within or near forest management units to identify summer roost trees, including maternity roost trees, occupied by the Indiana bat, northern long-eared bat, and tricolored bat, that are expected to be impacted or in proximity of a project-related effect within the project boundary at Harris Lake and Skyline WMA; and

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¹ FWS's April 2024 Range-Wide Indiana Bat and Northern Long-eared Bat Survey Guidelines are available at https://www.fws.gov/sites/default/files/documents/2024_04/final_usfws_range-wide_ibat-nteb_survey_guidelines_508-compliant.pdf.

~~(3) Site of the proposed Highway 48 Day Use Park at Harris Lake.~~

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~~(b) The final WMP must include the following provisions for conducting timber harvests and tree trimming activities when surveys resulted in a finding of species presence and following time-of-year restrictions are not feasible (i.e., when the activity will be conducted from March 15 to September 30):~~

~~(ii) Maintain a forested buffer (i.e., no-harvest zone) around identified Indiana, northern long-eared, and tricolored bat roost trees, including maternity roost trees, with the width of each buffer determined in consultation with FWS and Alabama DCNR;~~

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~~(iii) Evaluate, in consultation with FWS and Alabama DCNR, potential cave protection methods to prevent or minimize human disturbances of bats and the spread of white-nose syndrome in the project boundary, including, but not limited to:~~

- ~~— Installing gates, fences, and/or signs at cave entrances to deter recreation or unauthorized activities at caves occupied by gray, Indiana, northern long-eared, and/or tricolored bats;~~
- ~~— Limiting timber harvest activities to occur outside periods when the caves are occupied by gray, Indiana, northern long-eared, and/or tricolored bats;~~
- ~~— Maintaining forested buffers at cave entrances, sinkholes, and other karst features connected to caves occupied by gray, Indiana, northern long-eared, and/or tricolored bats, similar to streamside management zones, where no timber is harvested, and heavy equipment does not enter/traverse;~~
- ~~— Maintaining forested corridors from caves occupied by gray, Indiana, northern long-eared, and/or tricolored bats to streamside management zones and other riparian areas that provide foraging habitat; and~~
- ~~— Reporting to FWS and Alabama DCNR any observed changes to caves or karst features that occur during or after forest management activities, including timber harvests, such as: collapse of, or other damage to caves; changes in forest density that could affect abiotic factors such as air flow patterns, sun exposure, humidity, groundwater flow; and/or increased public access to caves.~~

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~~(c) The final WMP must include provisions to prepare and file, with the Commission, all bat survey reports including:~~

~~(i) The survey methods and results;~~

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(ii) An evaluation of whether any caves, other karst features, and roost trees occupied by gray, Indiana, northern long-eared, and/or tricolored bats, would be affected by timber harvests, recreation, and/or other human disturbances;

(iii) Documentation of consultation with FWS and Alabama DCNR; and

(iv) A description of any proposed bat protection measures for inclusion in the final WMP, if updates are deemed necessary based on survey results.

(d) Hazardous or fallen trees may be removed for the protection of human life and property at the project at any time.

(e) Prior to finalizing each annual timber management plan, consult with FWS and Alabama DCNR to confirm whether the geographic boundaries and time frames of Indiana, northern long-eared, and tricolored bats' activities in Alabama, as shown in Appendix J of FWS's Range-Wide Indiana Bat and Northern Long-eared Bat Survey Guidelines (2024) (i.e., or updated FWS guidance, as it may become available), have changed,

(3) Alligator Snapping Turtle

The final WMP must include provisions outlining that, if alligator snapping turtles are observed within the project boundary at Harris Lake, Alabama Power will consult with FWS and Alabama DCNR to develop and recommend protection measures to avoid adverse effects, if any, to this species during project operation and maintenance and will file any FWS or Alabama DCNR recommended measures with the Commission.

(4) Monarch Butterfly

(a) The final WMP must include descriptions of the methods used to maintain the Pollinator Plots and adjacent lands at Little Fox Creek on Harris Lake, including:

(i) The list of species in the native plant seed mix for the Pollinator Plots;

(ii) The 5-year management cycle (i.e., applying three rounds of herbicide treatment over the course of a year and then replanting the seed mix), including the names of the herbicides used and methods of application in the Pollinator Plots;

(iii) Methods to control non-native invasive plants in the Pollinator Plots within each management cycle; and

(iv) A description of the vegetation management methods (mechanical, chemical, and biological treatments, as well as prescribed burns) used in the areas adjacent to the Pollinator Plots, including within the three permanent openings, non-project transmission line corridor, and the 160-acre open/savannah;

(b) The final WMP must include provisions to:

(i) ensure that herbicides and insecticides used to control nuisance aquatic vegetation and mosquitos, as part of the Non-Native Aquatic Vegetation and Vector Control Management

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(i) Implement time-of-year restrictions for, and establishing protective buffers around occupied summer and winter habitats during, timber harvests and other tree trimming and removal activities, including: ¶

Limiting these activities to November 16 through March 14 within project land at Harris Lake, to avoid the Indiana, northern long-eared, and tricolored bats' active season, which is from March 15 through November 15, and identify no harvest/disturbance buffer distances to be maintained any occupied habitats, in consultation with the FWS and Alabama DCNR ¶

Within project land at Skyline WMA, based on the survey results described in item (2)(a)(i) and (ii) above, identify specific time frames for tree removal activities, and no-harvest/disturbance buffer distances to be maintained any around occupied habitats, in consultation with the FWS and Alabama DCNR; ¶

¶

If tree trimming and removal cannot be avoided during the periods identified in items (2)(c)(i) above, and if no valid survey data (i.e., based on FWS's guidance regarding survey validity) is available for the affected area(s), then no more than 5 years prior to tree removal activities, and undertaking any other project-related activity with a potential impact ... [1]

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Deleted: (e) File, with the Commission, for approval, any proposed updates to the bat survey methods and annual timber management plans in the WMP to ... [2]

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Program required in Article 413, would not be applied near the Pollinator Plots or other known locations of milkweeds on project land;

(ii) survey the project transmission line for the presence of monarch habitat and, if present, manage vegetation in the project transmission line to minimize adverse effects to monarchs by: (i) preserving any milkweed and other low-growing nectar rich plants for monarchs; (ii) targeting only non-native plants and woody vegetation that exceeds right-of-way height limits via mechanical methods; and (iii) using spot herbicide treatments only if mechanical methods are ineffective;

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(iii) Ensure that all pesticides (e.g., herbicides and insecticides) used at the project are included on the Environmental Protection Agency's (EPA) list of approved pesticides, and any updated versions of that list during the license term, be applied by certified applicators, and use EPA-approved application methods.

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5) Listed Plants/Fern: Georgia Rockcress, White Fringeless Orchid, Price's Potato Bean, Morefield's Leather-Flower, and American Hart's-Tongue Fern

Deleted: (e) Incorporate any Commission-approved protection measures for this species into the final WMP.

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(a) The final WMP must include provisions to:

Deleted: Prior to implementing soil/vegetation disturbing activities near the project shoreline and riverbank,...

(i) conduct a habitat assessment for Georgia rockcress on project land at Harris Lake and prepare a habitat assessment report with a description of whether suitable conditions for Georgia rockcress are present prior to implementing soil/vegetation disturbing activities near the project shoreline and riverbank.

(ii) Where suitable habitat is present and expected to be impacted by project related vegetation and/or soil-disturbing activities:

(1) Identify and implement FWS's current Georgia rockcress survey protocols at affected sites (e.g., proposed shoreline vegetation management activities, shoreline stabilization projects such as riprap installation and seawall construction, and vegetation clearing/soil disturbance associated with the construction of the proposed Hwy 48 Day Use Park and tailrace fishing pier and canoe/kayak put-in);

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(2) Prepare a Georgia rockcress survey report and submit it to the FWS;

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(3) Consult with the FWS regarding the survey results and develop Georgia rockcress protection measures, if needed to avoid adverse project-related effects on this species;

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(4) File the survey results, documentation of consultation, and any proposed Georgia rockcress protection measures, with the Commission.

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(b) The final WMP must include provisions to:

(i) Prior to harvesting timber and implementing other soil or vegetation disturbing activities, conduct a habitat assessment for white fringeless orchid on project land at both Harris Lake and Skyline WMA and prepare a habitat assessment report with a description of whether suitable conditions for white fringeless orchid are present.

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(ii) If suitable habitat is present and expected to be impacted by project-related vegetation- and/or soil-disturbing activities:

(1) Identify and implement FWS's current white fringeless orchid survey protocols at affected sites, such as timber harvest units, prescribed burn areas, vegetation management (e.g., herbicide application, mowing) areas in the transmission line corridor, and construction areas for the proposed recreation amenities;

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(2) If white fringeless orchids are found, develop protection measures in consultation with FWS and Alabama DCNR. Protection measures that must be considered, but not be limited to, include:

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- Creating a protected buffer and routing timber harvest equipment around identified white fringeless orchids;
- Identifying the optimal density of residual trees to benefit white fringeless orchid;
- Removing any non-native invasive plants near identified white fringeless orchids; and
- Timing vegetation management activities to avoid white fringeless orchid's flowering period.

(3) File the survey results, documentation of consultation, and any proposed white fringeless orchid protection measures, with the Commission.

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(c) The final WMP must include provisions to:

(i) Prior to harvesting timber and implementing other soil or vegetation disturbing activities on project land at Skyline WMA, conduct a habitat assessment for Price's potato bean, Morefield's leather-flower, and American hart's-tongue fern, and prepare a habitat assessment report.

Deleted: (iv) Incorporate any Commission approved white fringeless orchid protection measures into the final WMP. ...¶

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(ii) If suitable habitat is present and expected to be impacted by project-related vegetation- and/or soil-disturbing activities:

(1) Identify and implement FWS's current survey protocols for these species at affected sites, as applicable (e.g., forest management units);

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(2) If any Price's potato bean, Morefield's leather-flower, and/or American hart's-tongue ferns are found, develop protection measures in consultation with FWS and Alabama DCNR. Protection measures that much be considered, but not be limited to, include:

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- Creating a protected buffer and routing timber harvest equipment around identified occurrences of these species;
- Identifying and maintaining the optimal density of residual trees to benefit identified occurrences of these species;
- Removing any non-native invasive plants near identified occurrences of these species; and

— Timing vegetation management activities to avoid Price’s potato bean and Morefield’s leather-flower’s flowering period.

(3) File the survey results, documentation of consultation, and any proposed measures to protect these species, with the Commission.

(d) File an implementation schedule.

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Deleted: (iv) Incorporate any Commission-approved protection measures for these species into the final WMP;

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In addition, consult with FWS and Alabama DCNR to develop and finalize any other measures protective of wildlife resources within the project boundary at Harris Lake and Skyline WMA.

The draft WMP plan must be revised in consultation with the FWS and Alabama DCNR. The licensee must include with the plan documentation of consultation, copies of recommendations on the completed plan after it has been prepared and provided to the entities above, and specific descriptions of how the entities’ comments are accommodated by the program. The licensee must allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing must include the licensee’s reasons, based on project specific information.

The Commission reserves the right to require changes to the plan. Upon Commission approval the licensee must implement the plan, including any changes required by the Commission.

ATTACHMENT 2
CLEAN VERSION OF PROPOSED ARTICLE 415 (DEIS ARTICLE 413)

Draft Article 415 (draft EIS Article 413). Wildlife Management Plan. Within one year of license issuance, the licensee must file, for Commission approval, a final Wildlife Management Plan (WMP) to protect and enhance wildlife habitat on project land at Harris Lake and the Skyline Wildlife Management Area (WMA). To protect wildlife, plants, and their habitats, including federally listed species, the WMP must be approved by the Commission prior construction of the Highway (Hwy) 48 Day Use Park at Harris Lake, and implementation of regular forest management activities, including timber harvests and prescribed burns.

The final WMP must include the following parts of the draft WMP filed on November 21, 2024:

- (1) Descriptions of land uses and existing habitats on project land at Harris Lake and Skyline WMA;
- (2) A description of the wildlife management objectives and associated methods to protect and enhance native vegetation and wildlife habitat through management of: (a) shorelines at Harris Lake; (b) forests on project land at Harris Lake and Skyline WMA; (c) food plots and other permanent openings on project land at Harris Lake and Skyline WMA; (d) the Pollinator Plots at Little Fox Creek on Harris Lake; and (e) public hunting areas on project land at Harris Lake and Skyline WMA; and
- (3) Specific best management practices (BMPs) that reduce or prevent runoff, erosion, turbidity, and sedimentation that may impact streams and waterbodies on project lands during timber management activities, to include, but not be limited to the following Alabama Forestry Commission forestry BMPs: (a) establish streamside management zones, on each side of a perennial or intermittent stream with a minimum of 35 feet from a definable bank, or 50 feet if appropriate for wildlife protection; (b) avoid stream crossings by roads, skid trails, or firebreaks, when possible; (c) when unavoidable, use the fewest possible stream crossings located where the bank and streamside management zones would be least disturbed; and (d) properly plan and locate roads.

The final WMP plan must also include the following measures to identify and protect federally listed and other special status species on project land at Harris Lake and/or Skyline WMA:

(1) *Red-Cockaded Woodpecker*

- (a) The final WMP must include a strategy for surveying and reporting survey results for red-cockaded woodpeckers at Harris Lake, developed, in consultation with the U.S. Fish and Wildlife Service (FWS) and the Alabama Department of Conservation and Natural Resources (Alabama DCNR). The strategy must include:
 - (i) Surveying locations of open pine stands containing pine trees with a diameter at breast height equal to or greater than 10 inches and 60 years or older within: (i) the 160-acre natural pine and other timber management sites on the southwestern side of Harris Lake prior to prescribed burns and timber harvests; (ii) mature/over mature pine stands at Harris Lake prior to harvesting; (iii) the area

proposed for the Hwy 48 Day Use Park prior to removing mature pines and commencing construction; and (iv) any pine forests where future recreation sites or amenities are proposed at Harris Lake (i.e., prior to clearing/construction).;

(ii) Provisions to: (i) document and submit the red-cockaded woodpecker survey results to FWS and Alabama DCNR, and (ii) consult with these agencies to develop measures, if needed, to protect any identified red-cockaded woodpeckers or suitable/occupied habitat, such as timing the prescribed burns based on red-cockaded woodpecker use/activity in the area;

(iii) A provision to file with the Commission red-cockaded woodpecker survey reports, including survey methods and results, documentation of consultation with FWS and Alabama DCNR, and any proposed red-cockaded woodpecker protection measures; and

(iv) An implementation schedule for conducting surveys and reporting results.

(2) *Gray Bat, Indiana Bat, Northern Long-Eared Bat, and Tricolored Bat*

(a) The final WMP must include provisions to:

(i) No more than 5 years prior to continuing tree removal activities, including timber harvests on project land at Harris Lake and Skyline WMA, tree removal associated with the construction of recreation sites/amenities and undertaking any other project-related activity with a potential impact to gray, Indiana, northern long-eared, and/or tricolored bats, use FWS's current gray bat survey guidance, and FWS's Range-Wide Indiana Bat and Northern Long-eared Bat Survey Guidelines (2024) which also applies to the tricolored bat,¹ (or use updated FWS bat survey protocols, as they may become available), to conduct a habitat assessment for Gray Bat, Indiana Bat, Northern Long-Eared Bat, and Tricolored Bat.

(ii) If habitat is present, implement FWS published time-of-year restrictions (i.e., conduct the activity from October 1 to March 14), when feasible, for avoiding impacts. (ii) If following time-of-year restrictions is not feasible, conduct surveys in accordance with published USFWS guidance and prepare survey reports for:

(1) Caves and other karst features (i.e., among the 236 caves) within the project boundary at Skyline WMA, to identify hibernacula and summer roost caves occupied by the gray bat, and hibernacula occupied by the Indiana bat, northern long-eared bat, and tricolored bat, that are within or near lands

¹ FWS's April 2024 Range-Wide Indiana Bat and Northern Long-eared Bat Survey Guidelines are available at https://www.fws.gov/sites/default/files/documents/2024_04/final_usfws_range-wide_ibat-nleb_survey_guidelines_508-compliant.pdf.

proposed for project-related tree removal activities and are expected to be impacted or in proximity of an expected impact to these bat species;

(2) Land within or near forest management units to identify summer roost trees, including maternity roost trees, occupied by the Indiana bat, northern long-eared bat, and tricolored bat, that are expected to be impacted or in proximity of a project-related effect within the project boundary at Harris Lake and Skyline WMA; and

(3) Site of the proposed Highway 48 Day Use Park at Harris Lake.

(b) The final WMP must include the following provisions for conducting timber harvests and tree trimming activities when surveys resulted in a finding of species presence and following time-of-year restrictions are not feasible (i.e., when the activity will be conducted from March 15 to September 30):

(ii) Maintain a forested buffer (i.e., no-harvest zone) around identified Indiana, northern long-eared, and tricolored bat roost trees, including maternity roost trees, with the width of each buffer determined in consultation with FWS and Alabama DCNR;

(iii) Evaluate, in consultation with FWS and Alabama DCNR, potential cave protection methods to prevent or minimize human disturbances of bats and the spread of white-nose syndrome in the project boundary, including, but not limited to:

- Installing gates, fences, and/or signs at cave entrances to deter recreation or unauthorized activities at caves occupied by gray, Indiana, northern long-eared, and/or tricolored bats;
- Limiting timber harvest activities to occur outside periods when the caves are occupied by gray, Indiana, northern long-eared, and/or tricolored bats;
- Maintaining forested buffers at cave entrances, sinkholes, and other karst features connected to caves occupied by gray, Indiana, northern long-eared, and/or tricolored bats, similar to streamside management zones, where no timber is harvested, and heavy equipment does not enter/traverse;
- Maintaining forested corridors from caves occupied by gray, Indiana, northern long-eared, and/or tricolored bats to streamside management zones and other riparian areas that provide foraging habitat; and
- Reporting to FWS and Alabama DCNR any observed changes to caves or karst features that occur during or after forest management activities, including timber harvests, such as: collapse of, or other damage to caves; changes in forest density that could affect abiotic

factors such as air flow patterns, sun exposure, humidity, groundwater flow; and/or increased public access to caves.

(c) The final WMP must include provisions to prepare and file, with the Commission, all bat survey reports including:

(i) The survey methods and results;

(ii) An evaluation of whether any caves, other karst features, and roost trees occupied by gray, Indiana, northern long-eared, and/or tricolored bats, would be affected by timber harvests, recreation, and/or other human disturbances;

(iii) Documentation of consultation with FWS and Alabama DCNR; and

(iv) A description of any proposed bat protection measures for inclusion in the final WMP, if updates are deemed necessary based on survey results

(d) Hazardous or fallen trees may be removed for the protection of human life and property at the project at any time.

(e) Prior to finalizing each annual timber management plan, consult with FWS and Alabama DCNR to confirm whether the geographic boundaries and time frames of Indiana, northern long-eared, and tricolored bats' activities in Alabama, as shown in Appendix J of FWS's Range-Wide Indiana Bat and Northern Long-eared Bat Survey Guidelines (2024) (i.e., or updated FWS guidance, as it may become available), have changed,

(3) *Alligator Snapping Turtle*

The final WMP must include provisions outlining that, if alligator snapping turtles are observed within the project boundary at Harris Lake, Alabama Power will consult with FWS and Alabama DCNR to develop and recommend protection measures to avoid adverse effects, if any, to this species during project operation and maintenance and will file any FWS or Alabama DCNR recommended measures with the Commission.

(4) *Monarch Butterfly*

(a) The final WMP must include descriptions of the methods used to maintain the Pollinator Plots and adjacent lands at Little Fox Creek on Harris Lake, including:

(i) The list of species in the native plant seed mix for the Pollinator Plots;

(ii) The 5-year management cycle (i.e., applying three rounds of herbicide treatment over the course of a year and then replanting the seed mix), including the names of the herbicides used and methods of application in the Pollinator Plots;

(iii) Methods to control non-native invasive plants in the Pollinator Plots within each management cycle; and

(iv) A description of the vegetation management methods (mechanical, chemical, and biological treatments, as well as prescribed burns) used in the areas adjacent to the Pollinator Plots, including within the three permanent openings, non-project transmission line corridor, and the 160-acre open/savannah;

(b) The final WMP must include provisions to:

(i) ensure that herbicides and insecticides used to control nuisance aquatic vegetation and mosquitos, as part of the Non-Native Aquatic Vegetation and Vector Control Management Program required in Article 413, would not be applied near the Pollinator Plots or other known locations of milkweeds on project land;

(ii) survey the project transmission line for the presence of monarch habitat and, if present, manage vegetation in the project transmission line to minimize adverse effects to monarchs by: (i) preserving any milkweed and other low-growing nectar rich plants for monarchs; (ii) targeting only non-native plants and woody vegetation that exceeds right-of-way height limits via mechanical methods; and (iii) using spot herbicide treatments only if mechanical methods are ineffective;

(iii) Ensure that all pesticides (e.g., herbicides and insecticides) used at the project are included on the Environmental Protection Agency's (EPA) list of approved pesticides, and any updated versions of that list during the license term, be applied by certified applicators, and use EPA-approved application methods.

(5) *Listed Plants/Fern: Georgia Rockcress, White Fringeless Orchid, Price's Potato Bean, Morefield's Leather-Flower, and American Hart's-Tongue Fern*

(a) The final WMP must include provisions to:

(i) conduct a habitat assessment for Georgia rockcress on project land at Harris Lake and prepare a habitat assessment report with a description of whether suitable conditions for Georgia rockcress are present prior to implementing soil/vegetation disturbing activities near the project shoreline and riverbank.

(ii) Where suitable habitat is present and expected to be impacted by project related vegetation and/or soil-disturbing activities:

(1) Identify and implement FWS's current Georgia rockcress survey protocols at affected sites (e.g., proposed shoreline vegetation management activities, shoreline stabilization projects such as riprap installation and seawall construction, and vegetation clearing/soil disturbance associated with the construction of the proposed Hwy 48 Day Use Park and tailrace fishing pier and canoe/kayak put-in);

- (2) Prepare a Georgia rockcress survey report and submit it to the FWS;
- (3) Consult with the FWS regarding the survey results and develop Georgia rockcress protection measures, if needed to avoid adverse project-related effects on this species;
- (4) File the survey results, documentation of consultation, and any proposed Georgia rockcress protection measures, with the Commission.

(b) The final WMP must include provisions to:

(i) Prior to harvesting timber and implementing other soil or vegetation disturbing activities, conduct a habitat assessment for white fringeless orchid on project land at both Harris Lake and Skyline WMA and prepare a habitat assessment report with a description of whether suitable conditions for white fringeless orchid are present.

(ii) If suitable habitat is present and expected to be impacted by project-related vegetation- and/or soil-disturbing activities:

(1) Identify and implement FWS's current white fringeless orchid survey protocols at affected sites, such as timber harvest units, prescribed burn areas, vegetation management (e.g., herbicide application, mowing) areas in the transmission line corridor), and construction areas for the proposed recreation amenities;

(2) If white fringeless orchids are found, develop protection measures in consultation with FWS and Alabama DCNR. Protection measures that must be considered, but not be limited to, include:

— Creating a protected buffer and routing timber harvest equipment around identified white fringeless orchids;

— Identifying the optimal density of residual trees to benefit white fringeless orchid;

— Removing any non-native invasive plants near identified white fringeless orchids;
and

— Timing vegetation management activities to avoid white fringeless orchid's flowering period.

(3) File the survey results, documentation of consultation, and any proposed white fringeless orchid protection measures, with the Commission

(c) The final WMP must include provisions to:

(i) Prior to harvesting timber and implementing other soil or vegetation disturbing activities on project land at Skyline WMA, conduct a habitat assessment for Price's potato bean, Morefield's leather-flower, and American hart's-tongue fern, and prepare a habitat assessment report.

(ii) If suitable habitat is present and expected to be impacted by project-related vegetation- and/or soil-disturbing activities:

(1) Identify and implement FWS's current survey protocols for these species at affected sites, as applicable (e.g., forest management units);

(2) If any Price's potato bean, Morefield's leather-flower, and/or American hart's-tongue ferns are found, develop protection measures in consultation with FWS and Alabama DCNR. Protection measures that much be considered, but not be limited to, include:

- Creating a protected buffer and routing timber harvest equipment around identified occurrences of these species;
- Identifying and maintaining the optimal density of residual trees to benefit identified occurrences of these species;
- Removing any non-native invasive plants near identified occurrences of these species; and
- Timing vegetation management activities to avoid Price's potato bean and Morefield's leather-flower's flowering period.

(3) File the survey results, documentation of consultation, and any proposed measures to protect these species, with the Commission

(d) File an implementation schedule.

In addition, consult with FWS and Alabama DCNR to develop and finalize any other measures protective of wildlife resources within the project boundary at Harris Lake and Skyline WMA.

The draft WMP plan must be revised in consultation with the FWS and Alabama DCNR. The licensee must include with the plan documentation of consultation, copies of recommendations on the completed plan after it has been prepared and provided to the entities above, and specific descriptions of how the entities' comments are accommodated by the program. The licensee must allow a minimum of 30 days for the entities to comment and to make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing must include the licensee's reasons, based on project specific information.

The Commission reserves the right to require changes to the plan. Upon Commission approval the licensee must implement the plan, including any changes required by the Commission.