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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426
September 12, 2025

OFFICE OF ENERGY PROJECTS

Project No. 2628-066 – Alabama
R.L. Harris Hydroelectric Project
Alabama Power Company

VIA FERC Service

Reference: Summary of Section 10(j) Meeting

To the Parties Addressed:

Enclosed is a summary of the section 10(j) meeting for the R.L. Harris Hydroelectric Project No. 2628-066, which was conducted by Federal Energy Regulatory Commission (Commission) staff on August 12, 2025. I am distributing copies of this summary to all parties and affected resource agencies for this proceeding as required under section 4.34(e)(4) of the Commission's regulations.

Sincerely,

DAVID TURNER Digitally signed by DAVID TURNER
Date: 2025.09.12 11:51:27 -04'00'

David Turner, Acting Chief
South Branch
Division of Hydropower Licensing

Enclosures: Summary of section 10(j) meeting with list of meeting attendees.

SUMMARY OF 10(j) MEETING

R.L. Harris Hydroelectric Project
FERC No. P-2628

On August 12, 2025, beginning at 10:00 a.m. Eastern Daylight Time / 9:00 a.m. Central Daylight Time, officials of the Federal Energy Regulatory Commission (Commission or staff) and the Alabama Department of Conservation and Natural Resources (Alabama DCNR) participated in a section 10(j) teleconference to discuss the Alabama DCNR's recommended 10(j) environmental enhancement measures for the R.L. Harris Hydroelectric Project (Harris Project). Representatives of Alabama Power Company (Alabama Power or licensee) and its consultants with Kleinschmidt and Balch and Bingham, as well as Alabama River's Alliance also attended the meeting by teleconference. A list of attendees is provided at the end of this summary.

The objective of the meeting was to discuss Alabama DCNR's 10(j) recommendations for the Harris Project that Commission staff found to be inconsistent with the Federal Power Act (FPA). Section 10(j) of the FPA requires the Commission to consider, and evaluate, as potential license conditions, recommendations that are made by federal and state fish and wildlife agencies for the purposes of protecting, mitigating damages to, and enhancing fish and wildlife species that are affected by the operation or maintenance of hydroelectric projects authorized by the Commission.

After introductions, Commission staff reviewed the meeting agenda and some meeting ground rules, including that the meeting was between Commission staff and Alabama DCNR staff (everyone else was considered observers and would be called upon as needed). Staff then explained the 10(j) process, including an overview and timeline. In January 2023, the Commission issued a notice indicating that the license application for the project was ready for environmental analysis. In response to this notice, Alabama DCNR filed recommendations under section 10(j). Concurrent with the issuances of the draft and final EISs in November 2024 and March 2025, respectively, staff issued letters to Alabama DCNR notifying them of staff's preliminary determination of inconsistency of five of their recommendations with sections 10(a) and 4(e) of the FPA, including the agency's recommended: (1) seasonal minimum flows, (2) 14-day downstream flow stabilization, (3) timing for taking the 2nd turbine unit offline, (4) water temperature change requirements, and (5) Aquatic Resources Monitoring Plan. Commission staff's 10(j) inconsistency letters provided Alabama DCNR with an opportunity to request this meeting to discuss and attempt to resolve this inconsistency.

Staff asked Alabama DCNR staff if there were any issues that they no longer wished to discuss during the meeting. Alabama DCNR informed staff that they wanted to discuss all five of the listed 10(j) issues, but with a focus on the minimum seasonal flows.

Staff then lead the discussions of each 10(j) issue.

Discussion of 10(j) Issues:

1. Seasonal Minimum Flows:

Alabama DCNR 10[j] Recommendation No. 1: Within 5 years of license issuance release the following seasonal continuous minimum flows: 390 cfs (7/1 – 11/30); 510 cfs (5/1 – 6/30 and 12/1 – 12/30); and 760 cfs (1/1 – 4/30).

Staff summarized the conclusions in the draft and final EISs and described the reasoning for the change in staff's minimum flow recommendation between the draft and final EISs. Alabama DCNR described the resource needs associated with minimum flows in the Tallapoosa and explained that they continue to recommend their seasonal flow for the protection of aquatic habitat and spawning grounds (focusing on riffle habitat) and felt their recommendation was reasonable and economically feasible. Alabama DCNR further explained that their previous comments and supporting literature (filed throughout the licensing process) support and justify their recommendation.

Staff discussed in greater detail the economics associated with the various minimum flow alternatives, including Alabama DCNR's recommended flow scenario. Staff explained its balancing call regarding the incremental benefits of the seasonal flow regime. Specifically, staff explained that between the no action and applicant's proposal, there would be a $3.4 million annual cost to Alabama Power, and with Alabama DCNR's flow, there would be even greater cost. Staff referenced table 4.3 in appendix H of the final EIS, which summarized the economics for the project.

Regarding generation losses, staff explained that the Commission now focuses less on the dollar value of the lost generation and more on the loss of megawatts/hour and provides the number of U.S. households per year which can be supplied by the reduced generation. This information is provided in Appendix I of the EIS. Staff's analysis shows that Alabama DCNR's seasonal minimum flow recommendation would reduce the amount of total energy available by 7,741 MWh, while Alabama Power's proposal would reduce total generation by 2,310 MWh. With peak energy, Alabama DCNR's seasonal minimum flows would reduce peak generation by 24,698 MWh while Alabama Power's proposal would reduce peak energy by 22,492 MWh. Staff acknowledge that peaking projects affect aquatic resources downstream from the project, but given the Commission's environmental baseline for analysis is current operation, a year-round flow of 300 cfs would be a significant improvement to aquatic resources over the baseline conditions.

Alabama DCNR asked, and staff confirmed, that the staff-recommended seasonal flow regime in the draft EIS was specifically modeled using the models (i.e., HEC-RAS and HEC-ResSim) that Alabama Power developed during the prefiling stage of the relicensing process. Alabama DCNR also talked about the effects associated with the

project and how its currently operated. They were interested in hearing more details about why staff changed their flow recommendation between the draft and final EIS and asked that staff consider accounts of other states that also have flow recommendations within the 30-60% mean annual flow range. Alabama DCNR stated that they've seen the effects of the project on downstream aquatic resources, noting that, incrementally, minimum flows above 300 cfs year-round, and specifically during the spawning period and in riffle habitat, more than doubled the improvement in wetted habitat (i.e., increased wetted habitat).

Staff noted that, based on modeling, Alabama DNCR's higher flow recommendations would affect resources upstream in the lake (e.g., potentially decrease reservoir elevations, especially during dry years). Staff also reiterated that the Commission's environmental baseline for analysis of alternatives is the existing conditions at the project (i.e., with the dam in place), and not pre-dam. Staff explained that we balance the resources there today with other competing uses.

The value of higher flows in the spring for spawning fish was discussed at length. Staff talked about not looking at the proposed 300-cfs year-round minimum flows in a vacuum, explaining that spring is a high inflow period and, therefore, the flow in the Tallapoosa River downstream from Harris Dam is likely to be higher than 300 cfs on a consistent basis during that period, compared with other seasons.

Alabama DCNR described the Tallapoosa River fishery, in terms of how it could benefit from its recommended seasonal minimum flow regime and asked how resource interests are balanced when the value of the fishery is not quantified and unknown. Staff explained how competing needs are typically balanced, including how the value of the fishery may be determined. Staff noted that it is not always about the economic value placed on the fishery, but that staff also look at the uniqueness of the fishery (e.g., is it a common fishery, or one found only in a specific location? Are there special status species?).

In addressing comments filed on the DEIS, staff found that there would be very little incremental change in aquatic habitat and only small incremental change in water quality (specifically warmer water temperature) that would benefit aquatic species in the Tallapoosa River, when comparing the draft EIS-recommended seasonal minimum flow regime and the final EIS minimum flow. Moreover, there would be a slight improvement in boatable days in the Tallapoosa River with the 300-cfs flow. Thus, staff concluded that the minimal to moderate benefits of the seasonal flow regime were not worth its cost. Staff then explained that we rarely have quantitative information on the value of resources to compare to the cost of reduced generation. Instead, we typically address the question of the fishery's value in a qualitative manner. Staff also looked at the effects of flows on reservoir elevations as part of the balancing call.

Alabama DCNR asked, considering the total net investment or fair value of the project, what percentage of total operations and maintenance (O&M) over 30 years is Alabama Power going to be providing. Staff explained that the cost of a measure relative to O&M costs is not considered in staff's balancing criteria, rather staff determines if the benefits provided by the measure are justified considering the cost. Staff further explained that the Commission issued multiple AIRs to understand the feasibility of putting in an additional structure to pass flows over 300 cfs. In response, Alabama Power has stated that releasing anything over 300 cfs would require facility modifications that could have safety issues. Further, although more flow would likely equal more habitat, the project is still a peaking project and during the large flows associated with project operation, the water level fluctuations in the Tallapoosa River downstream from Harris Dam could negate the benefits of higher minimum flows. Alabama DCNR questioned why staff recommended additional flows above 300 cfs in the draft EIS and not in the final. Staff reevaluated the flow issue, based on comments and information filed on the draft EIS, which resulted in staff modifying its recommendation in the final EIS, finding that the incremental benefits analysis shows that the benefits of those flows do not justify the higher cost of the feasible minimum flow release alternatives and cost associated with loss of generation.

Alabama DCNR also explained that there are several endemic species of fish that inhabit the Tallapoosa River downstream from Harris Dam, and that it is not simply a common fishery that you can find anywhere (as opposed to staff's finding that it was not considered a rare fishery community). Alabama DCNR feels that having a year-round 300 cfs minimum flow (with no seasonal component) is going to adversely affect downstream aquatic resources by reducing their reproductive potential, which they feel would adversely affect the economic value of the fishery. In support of their statement, Alabama DCNR volunteered to send reports on the economic value of aquatic resources, which will include regional and national information on the value of recreational angling. Staff asked that the information Alabama DCNR files to the record be as specific as possible where it concerns the recreational value of the fishery on the Tallapoosa River. Alabama DCNR concluded the discussion by confirming that they have information about the value of the fishery, and will provide studies on the economic value of fisheries, but not necessarily exclusive to the Tallapoosa River.

Alabama DCNR asked how staff would value endemic species (mussels and fish) in the Tallapoosa River, and noted that some of the loss of endemic species in the river is the result of multiple dams acting as a migration barrier. Staff noted that the reach downstream from Harris Dam is the focus, not the whole river, and endemic species are not exclusive to the downstream river reach. Moreover, effects are viewed from the Commission's environmental baseline.

Alabama DCNR stated that the year-round 300 cfs minimum flow would not be beneficial to the fishery since fish require a seasonal component to the flow, with higher

seasonal flows providing spawning cues and access to spawning habitat that isn't available at lower flows. Alabama DCNR agreed that seasonal rainfall could contribute (e.g., during normal wet years, seasonal flows could be higher than the proposed 300 cfs minimum flow). Staff then asked Alabama Power if they could provide data to quantify how often flows would be above 300 on an annual basis. Alabama DCNR said that in riffle habitat specifically, they saw increases of 14% in wetted habitat compared to Green Plan (current operations) which would be a significant increase in the amount of habitat. Staff also asked Alabama DCNR to file any additional info on habitat benefits at specific transects.

The issue was not resolved.

2. *14-Day Downstream Flow Stabilization:*

Alabama DCNR 10[j] Recommendation No. 3(b): Between 2/1 and 6/1 each year, stabilize flows in the Tallapoosa River downstream from Harris Dam for a 14-day period to improve spawning and hatching success.

Staff summarized its analysis in the draft and final EISs which showed that: (a) the measure, when combined with stable impoundment levels, could result in increased spill and fluctuating flows downstream in the Tallapoosa River; (b) maintaining a stable flow downstream during the spring would be difficult due to naturally high inflows and lake management obligations; and (c) there could be substantial lost generation.

Alabama DCNR stated that it appreciates FERC's adoption of the lake stabilization component of the recommendation, but stated that like the minimum flow recommendation, the downstream stabilization component was intended to protect key spawning habitat. And without resolution on the minimum flows, the downstream stabilization component of the recommendation is even more important. Alabama DCNR reiterated the value of stable flows in the spring for spawning (April – June) and stated that the information that they plan to provide for the minimum flow would be applicable for this recommendation as well.

Staff noted the potential conflict between the stability periods for Harris Lake and the Tallapoosa River and reiterated that this was part of our rational for not adopting this component of the recommendation. Specifically, having to stabilize the lake during the same time as stabilizing the downstream area could be problematic because peaking operations would essentially be eliminated and flow coming into the project would be passed downstream. High flood flows, in excess of the hydro station's capacity would be spilled at the dam, which could negate the benefits of stable downstream flows from scouring downstream spawning habitat or water level fluctuations in shallow-water habitat. Alabama DCNR said this would not be an issue, as the periods would not necessarily coincide/overlap. Rather, the two stabilization periods could be established at

different time periods annually. Staff then asked what minimum flow Alabama DCNR would like to see for the spring stabilization period. Alabama DCNR indicated that they would look for the spring flows provided in its minimum flow recommendation.

There was some discussion regarding the temperature of the water that would be provided during the period. Staff asked Alabama DCNR what temperature they were looking for in the downstream reach during this period. Alabama DCNR indicated that they envisioned a natural temperature mimicking a natural flow regime as much as possible, as well as reducing temperature changes. Alabama DCNR emphasized that all their recommendations go hand in hand, so when you take one out (i.e. the seasonal minimum flows), the rest are less effective. Alabama DCNR recognized that the draft EIS minimum flow recommendation was getting to that with the additional flows coming from higher in the reservoir and would minimize temperature issues downstream.

Staff added that in spring, even with partial destratification, temperatures can't really mimic upstream water temperatures. In April temperatures might be very close to upstream water temperatures, but in May-June it would be more challenging to mimic upstream water temperatures. Staff also reiterated that if more water is being released from Harris Dam, the method of release would need to be established.

The issue was not resolved.

3. *Timing of taking the 2nd turbine unit offline:*

Alabama DCNR 10[j] Recommendation No. 4(b): Take the 2nd turbine unit off-line at least 2 hours after the 1st turbine unit is taken off-line to minimize drastic flow, DO, and temperature changes, and to prevent fish stranding.

Staff summarized its analysis in the draft and final EISs which showed that due to the lack of substantial evidence, staff cannot determine the potential benefits of the measure. Moreover, a 2-hour delay could result in: (a) the release of flows and generation during off-peak times; and (b) effects on Harris Lake levels, in rare cases. In addition, staff noted the small percentage of time 2-turbine operation occurs (less than 9% of the time). Thus, any potential benefits of this measure to downstream resources would rarely be realized.

Alabama DCNR asked if there were any other timeframes, other than the 2-hour delay, that could be implemented to meet their goals. They note that even with the infrequent occurrence of 2-turbine operation, there could be a 9-foot elevation change in water levels downstream from the dam when the first turbine is taken offline, so there could be stranding events.

In response, staff asked Alabama Power about the physical and operational capabilities of the turbine units. Alabama Power acknowledged that the facility previously operated with two turbine units 9% of time, but that since the Green Plan was

implemented, the amount of time dropped to about 5%. Of that 5%, 35% of the time the project operates under a flood control mode, which cannot be altered.

Staff asked Alabama Power to file information on the turbine units' physical and operational capabilities, with the goal of looking at the timeframe associated with down-ramping (i.e., going from operating two units to one unit), and just how often this would occur, especially in the spring/early summer, to improve conditions for spring spawning fish. Alabama Power agreed to file information on the unit capabilities and frequencies and expects the 2-turbine operation would be reduced during non-flood operations.

The issue was not resolved.

4. Water temperature change criteria:

Alabama DCNR 10[j] Recommendation No. 4: Operate the project to follow a 90°F (32.2°C) maximum and a ±5°F (2.7°C) change from ambient water temperatures, and a 1.8°F (1°C) rate of change per hour requirement in the Tallapoosa River downstream from Harris Dam.

Staff summarized its analysis in the draft and final EISs which showed that Alabama DCNR's recommendation for a 1.8°F (1°C) rate of change per hour was inconsistent with section 10(j) because the potential benefit of the rate-of-change recommendation did not outweigh the cost of implementing the measure.

Alabama Power asked for clarification of staff's recommendation, stating that their understanding was that staff only adopted the maximum temperature standard (i.e., 90°F) and not the change from ambient (±5°F) and the 1.8°F rate of change per hour standards. Staff indicated that the 10(j) table showed that we were adopting the maximum temperature and the change from ambient temperature standards (90F +/- 5°F), but not the rate of change per hour standard. However, staff noted that those criteria were not specifically mentioned in the comprehensive development discussion or the draft water quality article. The rate change per hour portion of the recommendation wasn't adopted because staff were not certain it could be implemented at a reasonable cost. Alabama DCNR stated that this "inconsistency" in the final EIS creates confusion as to what staff is adopting and not adopting.

Staff described its recommended plan, as outlined in the comprehensive development section of the final EIS, where resource agencies, during consultation, would define the water temperature standard and criteria that should apply to the Tallapoosa River downstream from the project. Alabama DCNR stated that such an approach would be a workable solution for establishing temperature standards and criteria at the project. Staff stated that it would further examine this aspect of its recommended alternative (based on state water quality standards).

The issue was not resolved.

5. Developing and implementing an Aquatic Resources Monitoring Plan:

Alabama DCNR 10[j] Recommendation No. 17: Develop and implement, within 9 months of license issuance, an Aquatic Resources Monitoring Plan. The recommended plan would be implemented at determined intervals throughout the license period, include standardized sampling protocols for all aquatic species (macroinvertebrates, mollusks, crayfish, and fish), and include pre- and post-operational monitoring and provisions for altering project operations based on the monitoring.

Staff summarized its analysis in the draft and final EISs which showed that aquatic resource monitoring every 3 years during the term of a new license and monitoring prior to implementing any required minimum flows and water temperature enhancement was not necessary and would be unduly burdensome and costly. Instead, as outlined in the final EIS, page I-20, staff recommended that Alabama Power develop a Tallapoosa River Aquatic Resources Monitoring Plan, after consultation with Alabama Department of Environmental Management, Alabama DCNR, U.S. Fish and Wildlife Service, and the U.S. Geological Survey – Cooperative Research Unit. Staff asked Alabama DCNR if its recommended aquatic resources monitoring plan, as described during the 10(j) meeting and in the final EIS (Appendix I, Comprehensive Development and Recommended Alternative, and Appendix J, Draft License Articles) would address their concerns. Alabama DCNR asked if the plan includes the specific criteria that would be applied and if it accommodated species-specific information. Staff indicated that the actual draft article included the detail that Alabama DCNR asked about. Alabama DCNR stated that the potential alteration of project operation is the main component missing. Alabama DCNR stated that monitoring without an adaptive management framework is ineffective.

Staff and Alabama DCNR spoke at length about the need for a feedback loop within the plan. Alabama DCNR stated that without an adaptive management component, there is no process in the plan for adjusting flows or other measures based on responses from the monitoring. Alabama DCNR also stated that other aquatic species need to be covered by the plan, not just fish. Staff emphasized that the feedback loop component would come from the recommended advisory committee and the monitoring reports that would discuss any identified effects, as well as any recommended changes for Commission consideration and approval.

Alabama DCNR also requested that the definition of "project" be included in the final version of License Article 410. Alabama DCNR specifically highlighted item (d) that reads, "(d) any recommendations to the Commission, for approval, for changes to the monitoring schedule or other changes to the project to meet the plan's goals and objectives;…".

Staff reiterated that the plan provides a feedback loop, noting the specific provisions that provide the feedback loop (i.e., Flow Advisory Committee and monitoring reports that include a discussion of the effects associated with measures implemented at

the project, as well as any recommendations for changes to the monitoring schedule or the project), which accomplishes Alabama DCNR's goal. Staff also explained that the term "adaptive management" was not used in the revised draft article to make it more general and provide additional flexibility in how it is implemented. Staff stated that it would consider adding some clarifying language to the provision of the plan that requires the reports, where it concerns the consultation that should occur in describing the effects and making recommendations to the Commission. Alabama DCNR agrees with the long-term monitoring components of staff's recommended plan, so long as it includes a provision for "adaptive changes" to project operations (if necessary), which would allow the plan to achieve Alabama DCNR's goals and objectives.

The issue was not resolved.

Conclusions/Summary:

Staff summarized the meeting, stating that while no resolution was reached on any of the five topics, the discussion was beneficial and helpful. Alabama DCNR respectfully requests reconsideration of their recommendations, particularly minimum flows and those for spawning. Staff reminded Alabama DCNR and Alabama Power of the information each stated they would file to the record. Both indicated that the information could be filed within 2 weeks.

List of Meeting Attendees

Commission and WSP Staff
Sarah Salazar, Allan Creamer, Monte Terhaar, Danielle Elefritz, Alynda Foreman, Brian Mattax, Stephen Byrne

Alabama Department of Conservation and Natural Resources
Todd Fobian, Chris Blankenship, Fred Harders, Amy Silvano

Alabama Power Company
Angie Anderegg, Alan Peeples, Dave Anderson, Andrew Turner, Ashley McVicar, Tina Mills, Amanda Flemming, Jason Carlee, Jeff Baker

Kleinschmidt
Kelly Schaeffer, Kenneth Odem, Sandra Wash, Jason Moak

Balch and Bingham
Mary Samuels, Jim Hancock

Alabama River's Alliance
Jack West