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BRICKFIELD BURCHETTE  
RITTS & STONE, PC

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December 21, 2007

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

RE: Project No. 12632 – East Texas Electric Cooperative  
Lake Livingston Hydroelectric Project – Texas  
Request for authorization to utilize Alternative Licensing Procedures  
and to initiate consultation under § 106 of NHPA

Dear Secretary Bose:

Pursuant to sections 4.34(i) and 5.3 of the Commission's regulations, 18 CFR §§ 4.34(i) and 5.3, the East Texas Electric Cooperative, Inc. (ETEC) hereby requests authorization to utilize the Alternative Licensing Procedures (ALP) described in section 4.34(i) for the original licensing of the Lake Livingston Hydroelectric Project (Project). Pursuant to 36 CFR § 800.2(c)(4), ETEC also requests authorization to initiate consultation with interested agencies and stakeholders under section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations.

**Justification for Use of ALP**

Since receiving a preliminary permit for the Project in April 2006, ETEC has conducted engineering investigations and has engaged in initial consultations with federal and state agencies, major stakeholders, and FERC staff. On the basis of those activities, ETEC has concluded that the Commission's alternative licensing procedures offer the most appropriate licensing process for the Lake Livingston Project. While the default Integrated Licensing Process (ILP) is appropriate for substantial projects that involve relatively complex environmental issues, the ILP can be a needlessly lengthy process for more modest-sized projects with comparatively straightforward resource impacts. ETEC believes this Project falls into the latter category, and that an ALP tailored to the specific circumstances of the Project is the most efficient and effective process to utilize in this proceeding. Based on its initial consultations, ETEC is confident that a collaborative pre-filing process with agencies and other entities having a legitimate interest in the Project licensing will result in a broad consensus regarding necessary studies and appropriate mitigation and enhancement measures.

In accordance with 18 CFR § 5.3(c)(2) and (d), ETEC makes the following showings in support of its request to utilize the ALP:

1. Reasonable Effort to Achieve Consensus – On or about October 24, 2007, ETEC mailed a letter to each federal and state agency and to each Indian Tribe and local political subdivision or citizen group reasonably likely to have an interest in the Project’s licensing. The letter briefly described the proposed development, discussed the reasons why ETEC feels the ALP is the most appropriate licensing procedure for this project, and requested the recipients’ written concurrence to use of the ALP within 30 days of the date of the letter. The correspondence included a proposed licensing Process Plan and Schedule, as well as a draft Communications Protocol.

ETEC sent one version of the letter to federal and state agencies with which it had previously conducted initial consultations, and a separate but similar version to other agencies and potential stakeholders. ETEC also sent a separate but similar letter to the Alabama-Coushatta Tribe, with which ETEC had initiated consultations in July 2007. Copies of the three forms of letters, along with a list of the recipients of each form, are appended to this correspondence as *Attachment C*.

In addition, at the suggestion of the Texas Parks and Wildlife Department, ETEC sent similar correspondence on November 30, 2007, to several non-governmental organizations (NGOs) that are participants in an alliance known as “Texas Water Matters,” which have an ongoing interest in water quality and other issues related to Texas water bodies.<sup>1</sup>

As of December 20, 2007, ETEC had received affirmative concurrences in its request to utilize the ALP from the following federal agency:

- Department of the Interior (covering all bureaus within DOI, including U.S. Fish and Wildlife Service, National Park Service, and Bureau of Indian Affairs)

As of December 19, 2007, ETEC also had received written concurrences from the following state agencies and local political subdivisions:

- Texas Commission on Environmental Quality (TCEQ)
- Texas Parks and Wildlife Department (TPWD)
- State Historic Preservation Officer (SHPO), Texas Historical Commission

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<sup>1</sup> These NGOs were: the National Wildlife Federation; Lone Star Chapter, Sierra Club; and Environmental Defense (the correspondence was directed to the Austin, Texas office of each organization – see example in *Attachment C*).

- Trinity River Authority of Texas
- Polk County, Texas
- San Jacinto County, Texas
- Walker County, Texas
- City of Livingston, Texas
- City of Onalaska, Texas

Although some entities did not respond to ETEC's request for concurrence in the proposed use of alternative licensing procedures, ETEC has received no objections to use of the ALP from any entity.

Copies of each written response received by ETEC are appended hereto in ***Attachment D***.

While concurring that the ALP is appropriate for this Project, TCEQ and TPWD expressed concerns with the licensing schedule originally proposed by ETEC. In particular, those agencies said they were concerned with the lack of a formal opportunity to request follow-up studies after the conclusion of the initial studies conducted by ETEC. In response to the agencies' concerns, ETEC modified its schedule to include an opportunity to request additional studies after completion of the first round of studies next fall. The original schedule was further revised to reflect a later filing date for the Pre-Application Document (PAD) and Notice of Intent (NOI), and correspondingly later dates for subsequent events during the pre-filing consultation process. The revised process plan and schedule is appended to this correspondence as ***Attachment A***.

2. Communications Protocol – The proposed Communications Protocol, governing how the applicant and other participants in the pre-filing consultation process (including the Commission staff) may communicate with each other regarding the merits of the applicant's project and the proposals and recommendations of interested entities, is appended hereto as ***Attachment B***. A draft communications protocol was distributed to the entities listed in Attachment C along with ETEC's request for concurrence in the proposed use of the ALP. No agency or entity commented on the draft communications protocol. ETEC has made minor revisions to the draft protocol which are reflected in Attachment B. (The originally proposed version of the protocol is included with the correspondence in Attachment C.)

3. Process Plan and Schedule – ETEC's proposed Process Plan and Schedule for the Lake Livingston Project ALP, as revised, is included as ***Attachment A***. As noted above, the current schedule reflects changes to the originally proposed schedule to address concerns expressed by TPWD and TCEQ, and also to reflect a slightly later start to the process than initially contemplated.

The licensing schedule shows a process that began in May of this year with initial agency and stakeholder consultations, and culminates with a target date for issuance of a license in late 2009 or early 2010.<sup>2</sup> ETEC intends to submit its application for license and preliminary draft environmental assessment on or before March 31, 2009, the date its preliminary permit expires. ETEC believes the proposed ALP Process Plan and Schedule is reasonable and appropriate to the circumstances of the Lake Livingston Project.

### **Distribution and Publication**

As required by section 5.3(d) of the Commission's Regulations, ETEC is distributing copies of this request to all affected resource agencies, Indian tribes, and members of the public likely to be interested in the proceeding. Concurrently with this filing, ETEC also is publishing in daily or weekly newspapers of general circulation in the four counties in which the proposed Project will be located, a notice of this request and of the filing of ETEC's Notice of Intent (NOI) under section 5.5 of the Regulations and its Pre-Application Document (PAD) under section 5.6.<sup>3</sup>

### **Comments on Request to Use ALP**

Any agency, Indian tribe, or member of the public that wishes to comment on ETEC's request to use alternative licensing procedures pursuant to section 4.34(i) of the Commission's Regulations may submit comments to FERC not later than January 22, 2008. Commenters must submit an electronic filing pursuant to 18 CFR § 385.2003(c)<sup>4</sup> or an original and eight copies of their comments to the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

### **Request to Authorize ETEC to Initiate Consultations Under NHPA § 106**

Along with its request to use the ALP, ETEC hereby requests authorization to initiate consultations with appropriate federal, state and tribal historic preservation

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<sup>2</sup> ETEC recognizes that the Commission cannot commit to or be bound by specific dates for FERC action following ETEC's submission of the license application (e.g., dates for issuance of a final EA or license order). ETEC nevertheless deemed it prudent to include target dates for such actions in the process plan and schedule.

<sup>3</sup> ETEC is publishing the notice in the following newspapers: *The Polk County Enterprise*; *The San Jacinto News-Times*; *The Trinity Standard*; *The Corrigan Times*, and *The Huntsville Item*.

<sup>4</sup> Information on how to use FERC's electronic filing system is available on the Commission's website at: <http://www.ferc.gov/docs-filing/efiling.asp>.

Honorable Kimberly D. Bose, Secretary

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officials under section 106 of the NHPA and its implementing regulations at 36 CFR § 800.2(c)(4).

**Conclusion**

Accordingly, ETEC respectfully requests that the Commission (1) promptly publish notice of ETEC's request for authorization to utilize alternative licensing procedures under section 4.34(i) of the Regulations, soliciting public comments on such request to be filed not later than January 22, 2008; (2) following review of any comments submitted, grant ETEC's request to use the proposed ALP as outlined in the Process Plan and Schedule and the Communications Protocol included as ***Attachments A and B*** hereto; and (3) authorize ETEC to initiate consultation under section 106 of the NHPA and its implementing regulations at 36 CFR § 800.2(c)(4).

Respectfully submitted,

*/s/ Michael N. McCarty*

William H. Burchette

Michael N. McCarty

*Counsel to East Texas Electric  
Cooperative, Inc.*

cc: Distribution List (Attachment E)

# **ATTACHMENT A**

## **Proposed ALP Process Plan and Schedule**

**PROPOSED ALTERNATIVE LICENSING PROCESS SCHEDULE FOR  
LAKE LIVINGSTON HYDROELECTRIC PROJECT**

<b>May-December 2007</b>	Initial consultation with agencies, tribes, local governments.
<b>October-December 2007</b>	Obtain consensus of agencies/stakeholders to use ALP.
<b>December 19, 2007</b>	File Notice of Intent (NOI) and PAD and request permission to use ALP. (PAD serves as Initial Information Document required by 18 CFR § 4.34(i)(4)(i).) Publish notice of filing in newspaper of general circulation in each county where project is located.
<b>January 22, 2008</b>	Comments due at FERC on ETEC's request to use ALP.
<b>February 21, 2008</b>	FERC rules on request to use ALP; notices date, time and location of environmental scoping meeting in Livingston.
<b>March 26, 2008</b>	Initial information and scoping meeting to be held in Livingston (at Livingston-Polk County Chamber of Commerce).
<b>April 25, 2008</b>	Agencies/stakeholders comment on environmental scoping and submit requests for specific studies.
<b>April 1-May 23, 2008</b>	Applicant consults with agencies, stakeholders, and FERC Staff to reach consensus on required studies (if and as necessary).
<b>November 2007- November 2008</b>	Applicant conducts environmental and transmission routing studies, prepares study reports.
<b>October 2008 (target date – subject to change)</b>	ETEC files request for Clean Water Act §401 Water Quality Certification with TCEQ; files application for §404 permit with U.S. Army Corps of Engineers.
<b>November 28, 2008</b>	Study reports shared with interested agencies/stakeholders.
<b>December 15, 2008</b>	Last date for Agencies/stakeholders to inform ETEC whether additional studies are deemed necessary.
<b>November 2008- March 2009</b>	Applicant and consultant(s) prepare FERC license application and PDEA; ETEC conducts follow-up studies (if and as necessary).
<b>December 17, 2008</b>	FERC solicits filing (by January 30, 2009) of preliminary fish & wildlife recommendations, prescriptions, and comments (per 18 CFR § 4.34(i)(6)(vi)).
<b>January 30, 2009</b>	Agencies/stakeholders file preliminary F&W recommendations, prescriptions, and/or comments.
<b>March 31, 2009</b>	ETEC files license application and PDEA.
<b>May 15, 2009</b>	FERC issues Notice of Application and Solicitation of Final F&W conditions, prescriptions, comments, and interventions.
<b>July 14, 2009</b>	Comments on Application, Final Conditions and Prescriptions, and interventions due.
<b>November 16, 2009</b>	FERC issues Final EA (target date, subject to change).
<b>30-90 days after Final EA</b>	FERC issues license order (target date, subject to change).

# **ATTACHMENT B**

## **Proposed Communications Protocol**



**COMMUNICATIONS PROTOCOL  
FOR LICENSING OF THE  
LAKE LIVINGSTON HYDROELECTRIC PROJECT  
FERC Project No. 12632**

**INTRODUCTION**

The East Texas Electric Cooperative, Inc. (ETEC) currently holds a preliminary permit under the Federal Power Act to study the potential development of hydroelectric power facilities at the existing Lake Livingston Dam near Livingston, Texas. Having completed an initial feasibility analysis, ETEC now intends to seek a license from the Federal Energy Regulatory Commission (FERC) to construct and operate the Lake Livingston Hydroelectric Project (Project).

ETEC will seek FERC's permission to utilize the "Alternative Licensing Process" (ALP) described in Section 4.34(i) of the FERC regulations (18 CFR § 4.34(i)). The ALP is one of three hydropower licensing processes currently recognized by FERC (the other two being the "Traditional" and the "Integrated" licensing processes). The goals of the ALP are to:

- Facilitate participation and communication among the applicant, resource agencies, Indian tribes, the public, and FERC staff in a pre-filing consultation process tailored to the circumstances of the particular project;
- Combine into a single process the pre-filing consultation process and environmental review processes under the National Environmental Policy Act and other statutes; and
- Allow for preparation of a preliminary draft environmental assessment (PDEA) by the applicant, which is submitted along with the license application in lieu of a separate environmental exhibit.

Among other requirements, a prospective applicant wishing to use the ALP must develop a "communications protocol" governing how the applicant and other participants in the pre-filing consultation process, including the FERC staff, may communicate with each other regarding the merits of the proposed project and the proposals and recommendations of interested entities. Accordingly, the following communications protocol provides guidelines for how information will be disseminated and how communications will occur among participants in the licensing process.

**PARTICIPANTS IN THE LICENSING PROCESS**

The licensing process for the Project, especially the scoping of issues and review of the PDEA, is open to the general public. The participation of any individuals and entities with legitimate interests in the Project is welcomed and encouraged. Because the ALP can be successful only if the process plan and schedule are adhered to, it is important that any interested stakeholder take advantage of the opportunity to participate in the process at the appropriate juncture, and in a timely manner. This will insure that the stakeholder's concerns can be given proper consideration and addressed by the applicant.

**Distribution List** – ETEC has compiled an initial list of federal and state resource agencies, local governmental authorities, Indian tribes, and other entities that appear to have interests in the Project. (See Distribution List included with Pre-Application Document (PAD).) Those entities will receive copies of all public notices and all major documents produced in connection with the Project’s licensing. Any other individual or entity that wishes to be included on the Project’s distribution list can request to be added by contacting the Project Manager, whose contact information is as follows:

Brian Lawson, Project Manager  
GDS Associates, Inc.  
1850 Parkway Place, Suite 800  
Marietta, GA 30067  
Phone: 770-425-8100  
Fax: 770-426-0303  
[Brian.Lawson@GDSassociates.com](mailto:Brian.Lawson@GDSassociates.com)

Individuals and entities also can request to be placed on the distribution list by attending the public scoping meeting to be held in Livingston in early March, 2008. Public notice of the scoping meeting will be sent to the distribution list and published in local newspapers at least 15 days prior to the meeting.

Entities that file motions to intervene in the FERC licensing proceeding will also be added to the Project distribution list. It is not necessary, however, to intervene formally at FERC to be placed on (or to remain on) the distribution list. The FERC will not solicit motions to intervene until relatively late in the ALP process, after ETEC has submitted its final license application. ETEC encourages interested parties to participate early in the pre-filing consultation process; those who wait until after the application has been filed will have very limited opportunity to provide substantive input

## **DOCUMENT ACCESS AND DISTRIBUTION**

Relevant non-confidential documents generated or received by ETEC during the pre-filing consultation and licensing processes will be made available to the public.

**Website** – Major documents such as the Pre-Application Document (PAD), the Notice of Intent to file a license application (NOI), Study Plans, Study Reports, Semi-annual Progress Reports, the License Application, and the PDEA, will be posted electronically on a web page dedicated to the Project licensing on the ETEC website. These major documents will also be mailed to participants on the Project distribution list, unless a particular entity has indicated a preference not to receive such materials. The website’s URL address will be disclosed to participants and linked from the main ETEC website (<http://www.etc.coop>) as soon as the site is operational.

**Public Reference File** – ETEC will maintain a complete public reference file at the headquarters of one of its member distribution cooperatives, the Sam Houston Electric Cooperative (SHECO). In addition to the major documents identified above, the public reference file will contain copies of all written correspondence, meeting minutes, and telephone discussion notes submitted to or

generated by ETEC relating to the licensing of the Project. The file will also include copies of primary reference materials utilized by ETEC in preparing the PAD, PDEA, and license application (e.g., the current Trinity River Basin Master Plan). The public reference file will be located at:

Sam Houston Electric Cooperative  
1157 East Church Street  
Livingston, Texas 77351  
Phone: 936-327-5711

Persons desiring to utilize the public reference file should call SHECO's offices in advance to ensure that personnel are available to produce the documents. Paper copies of file documents in addition to those distributed as part of the consultation process will be available for a reproduction cost of \$0.20 per page.

**FERC e-Library** – The FERC maintains a public electronic library of all non-confidential documents filed in the licensing proceeding. The e-Library is accessed through FERC's website at: <http://www.ferc.gov/docs-filing/elibrary.asp>. Filings relating to this Project can be viewed or downloaded by selecting "General Search," entering Docket No. P-12632, and selecting the appropriate date range.

## WRITTEN COMMUNICATIONS

Unless a subject-specific line of communication has been established between a participant and a particular member of the Project licensing team, all written communications pertaining to the Project should be addressed to the Project Manager, as follows:

Brian Lawson, Project Manager  
GDS Associates, Inc.  
1850 Parkway Place, Suite 800  
Marietta, GA 30067  
Phone: 770-425-8100  
Fax: 770-426-0303  
[Brian.Lawson@GDSassociates.com](mailto:Brian.Lawson@GDSassociates.com)

Once a participant has identified a particular member of the licensing team with whom to communicate on a specific subject area (see attached list of licensing team members), the participant may communicate directly with that team member. However, any written communication that a participant intends to become part of the official record of the FERC licensing proceeding should also be copied to ETEC's licensing counsel:

Michael McCarty, Licensing Counsel  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson St. NW, Ste. 800 West  
Washington, DC 20007  
Phone: 202-342-0800  
Fax: 202-342-0807  
[Michael.McCarty@bbrslaw.com](mailto:Michael.McCarty@bbrslaw.com)

Although written correspondence may be communicated by e-mail, by fax, or by regular mail, e-mail is the preferred method.

## TELEPHONIC COMMUNICATIONS

Periodic teleconference calls among licensing participants may occur on an as-needed basis. A member of ETEC's licensing team will be assigned the responsibility to record and distribute written notes of teleconferences involving more than two participants (including ETEC), unless ETEC is not involved in the call or unless all parties to the call agree that written notes need not be recorded. Unless otherwise agreed among participants in a teleconference, the written notes or summary of the call will be included in ETEC's semi-annual reports to FERC and in the official documentation of ETEC's pre-filing consultation.

## PUBLIC MEETINGS AND NOTICE

ETEC currently plans to hold a public information and scoping meeting in the Project vicinity for the purpose of receiving comments and recommendations on the scoping of environmental and other issues involved in the Project's licensing. The public scoping meeting is tentatively scheduled for the last full week of March, 2008 (on or about 3/26/08), and the probable location is the Livingston – Polk County Chamber of Commerce, 1001 US Hwy 59 Loop North, Livingston, Texas. The meeting will include two sessions – one in the afternoon and one in the evening – to accommodate persons whose schedules permit them to attend only one session or the other. The afternoon session will be followed by a site visit to Lake Livingston Dam, during which interested persons can view the location of the proposed hydroelectric facilities.

At least 15 days prior to the scoping meeting and site visit, public notice of the meeting will be: (1) mailed or e-mailed to each entity on the Project distribution list, and (2) published in a newspaper of general circulation in each county where any part of the Project will be located.<sup>1</sup> In addition, if feasible, FERC will publish a *Federal Register* notice of the scoping meeting prior to the meeting.

ETEC also intends to hold a separate scoping meeting in connection with the Environmental Assessment and Alternate Route Analysis for the proposed 138-kV primary transmission line from the Project switchyard to the Rich substation near Goodrich, Texas. Notice of the transmission routing scoping meeting will be sent to land owners within the study area and to potentially

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<sup>1</sup> ETEC intends to publish notice of the scoping meeting in the following newspapers: *The Polk County Enterprise*; *The San Jacinto News-Times*; *The Trinity Standard*; *The Corrigan Times*; and *The Huntsville Item*.

interested federal, state and local agencies in accordance with regulations of both the FERC and the Public Utility Commission of Texas (PUCT). In addition to the FERC license (which includes the Project's primary transmission line), ETEC is required to obtain a Certificate of Convenience and Necessity (CCN) from the PUCT before it can install the transmission facilities.

In the event that ETEC decides to hold any additional public meetings to receive input on the licensing (*e.g.*, to discuss the PDEA), it will provide the same type of public notice as described in the preceding paragraphs.

### **SIX-MONTH PROGRESS REPORTS**

Under FERC regulations, ETEC is required to file semi-annual progress reports summarizing the progress made in the pre-filing consultation process and providing summaries or minutes of meetings held with ALP participants. These progress reports will be available on the Project website and via FERC's e-Library website.

### **COMMUNICATIONS WITH FERC STAFF**

The FERC has determined that its *ex parte* rule prohibiting off-the-record communications with Staff does not apply to pre-filing consultation in the ALP because this process occurs before the commencement of any "contested proceeding" at FERC. (Order No. 607, 88 FERC ¶ 61,225 (1999).) Therefore, any participant may communicate with the FERC Staff during the pre-filing period without any special documentation of the communication. The FERC Office of Energy Projects, Division of Hydropower Licensing has assigned Sarah Florentino as the staff's Project Coordinator for the Lake Livingston Project. Her phone number is (202) 502-6863, and her e-mail address is [Sarah.Florentino@ferc.gov](mailto:Sarah.Florentino@ferc.gov).

### **CRITICAL ENERGY INFRASTRUCTURE INFORMATION (CEII)**

Certain types of documentation that are relevant to the Project licensing may be withheld from public access because they contain material that FERC classifies as Critical Energy Infrastructure Information (CEII). The Commission defines CEII as:

Information concerning proposed or existing critical infrastructure (physical or virtual) that:

1. Relates to the production, generation, transmission or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the Freedom of Information Act; and,
4. Gives strategic information beyond the location of the critical infrastructure.

Typically, FERC classifies as CEII detailed drawings of dams and other project structures, as well as dam safety and inspection reports. ETEC will not make these types of documents available to the general public during the pre-filing consultation process (however, federal and state agencies

whose responsibilities in the licensing process so require may be supplied certain CEII). Once ETEC has filed its license application, a participant who can demonstrate a legitimate need to obtain Project-related CEII can file a CEII request through FERC's Office of External Affairs. Instructions for making a CEII request are found on the Commission's website: <http://www.ferc.gov/help/filing-guide/file-ceii.asp>.

## **ATTACHMENTS**

Attached to this communications protocol are the following:

- Table listing current members of ETEC's Lake Livingston Hydroelectric Project licensing team, and their contact information.
- Proposed ALP Process Plan and Schedule [omitted from reproduction in PAD because it appears elsewhere in that document]

**EAST TEXAS ELECTRIC COOPERATIVE, INC.  
LAKE LIVINGSTON HYDROELECTRIC PROJECT  
FERC PROJECT NO. 12632**

**PROJECT LICENSING TEAM**

<u>AFFILIATION</u>	<u>NAME</u>	<u>ROLE</u>
<u>ETEC Management</u>	Edd Hargett, Manager East Texas Electric Cooperative, Inc. 2905 Westward Drive P.O. Box 631623 Nacogdoches, TX 75963 Phone: 936-560-9532 Fax: 936-560-9215 <a href="mailto:eddh@gtpower.com">eddh@gtpower.com</a>	ETEC's chief executive
	Tambra Offield, Office Manager East Texas Electric Cooperative, Inc. (same address and phones as above) <a href="mailto:tambrao@gtpower.com">tambrao@gtpower.com</a>	ETEC's office manager
<u>Consultants</u>	Brian Lawson GDS Associates, Inc. 1850 Parkway Place, Suite 800 Marietta, GA 30067 Phone: 770-425-8100 Fax: 770-426-0303 <a href="mailto:Brian.Lawson@GDSassociates.com">Brian.Lawson@GDSassociates.com</a>	Project Manager
	Dan Wittliff, P.E. GDS Associates, Inc. 919 Congress Avenue, Suite 800 Austin, TX 78701 Phone: 512-494-0369 Fax: 512-494-0205 <a href="mailto:Dan.Wittliff@GDSassociates.com">Dan.Wittliff@GDSassociates.com</a>	Regulatory Liaison
	Paul C. Rizzo, Ph.D., P.E., President Paul C. Rizzo Associates, Inc. 105 Mall Blvd., Suite 270-E Monroeville, PA 15146 Phone: 412-856-9700 x-1021 Fax: 412-856-9749 <a href="mailto:paul.rizzo@rizzoassoc.com">paul.rizzo@rizzoassoc.com</a>	Civil Engineering
	Melvin Koleber, P.E. Paul C. Rizzo Associates, Inc. 2055 Craigshire Rd., Suite 350 St. Louis, MO 63146 Phone: 314-576-1125 Fax: 314-576-1126 <a href="mailto:mel.koleber@rizzoassoc.com">mel.koleber@rizzoassoc.com</a>	Civil Engineering

<u>AFFILIATION</u>	<u>NAME</u>	<u>ROLE</u>
	George Kithas, P.E. Cornelius-Pierce Consulting Engineers 9020 Benbrook Blvd. Benbrook, TX 76126 Phone: (817) 249-1547 <a href="mailto:george@c-pce.com">george@c-pce.com</a>	Transmission and Electrical Engineering
	John Chiles Senior Project Manager, Transmission Services GDS Associates, Inc. 1850 Parkway Place, Suite 800 Marietta, GA 30067 Phone: 770-425-8100 Fax: 770-426-0303 <a href="mailto:john.chiles@gdsassociates.com">john.chiles@gdsassociates.com</a>	Transmission Services
	Rob R. Reid Vice President, Senior Project Director PBS&J 6504 Bridge Point Parkway, Suite 200 Austin, TX 78730 (512) 327-6840 (main office) (512) 342-3370 (direct line) (512) 327-2453 (fax) <a href="mailto:rrreid@pbsj.com">rrreid@pbsj.com</a>	Environmental Services
	Andrew A. Labay, FP-C Senior Fisheries Ecologist PBS&J 6504 Bridge Point Parkway, Suite 200 Austin, TX 78730 (512)342-3382 (voice) (512)327-2453 (fax) <a href="mailto:aalabay@pbsj.com">aalabay@pbsj.com</a>	Fisheries Biologist
	David L. Buzan Senior Scientist PBS&J 6504 Bridge Point Parkway, Suite 200 Austin, TX 78730 (512)342-3382 (voice) (512)327-2453 (fax) <a href="mailto:dlbuzan@pbsj.com">dlbuzan@pbsj.com</a>	Water Quality Scientist
	Melissa L. Dubinsky, Ph.D. Paul C. Rizzo Associates, Inc. 105 Mall Blvd., Suite 270-E Monroeville, PA 15146 Phone: 412-856-9700 x-1009 Fax: 412-856-9749 <a href="mailto:Melissa.Dubinsky@rizzoassoc.com">Melissa.Dubinsky@rizzoassoc.com</a>	Environmental Services



Legal Counsel

Michael N McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, DC 20007  
Phone: 202-342-0800  
Fax: 202-342-0807  
[Michael.McCarty@bbrslaw.com](mailto:Michael.McCarty@bbrslaw.com)

Licensing Counsel

# **ATTACHMENT C**

## **Request for Written Concurrence to Use ALP**

**Letter to Previously Consulted Federal and State Agencies/List of Recipients**

**Letter to Other Agencies, Local Government, and  
Potential Stakeholders/List of Recipients**

**Letter to Non-Governmental Organizations Participating in  
Texas Water Matters Program/List of Recipients**

**Letter to Alabama-Coushatta Tribe**

# East Texas Electric Cooperative, Inc.

P.O. Box 631623, Nacogdoches, Texas 75963-1623 • Telephone (936) 560-9532 • Fax (936) 560-9215

October 24, 2007

Mr. Ronald Hebert, Jr.  
Water Program Manager  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, TX 77703

RE: Lake Livingston Hydroelectric Project –  
Request for consent to utilize FERC Alternative Licensing Process

Dear Mr. Hebert:

You may recall that in June of this year, representatives of the East Texas Electric Cooperative, Inc. (ETEC) and the Trinity River Authority of Texas (TRA) met with you and other staff members of the Texas Commission on Environmental Quality to discuss a proposed hydroelectric power project at Lake Livingston Dam. Having completed a preliminary round of discussions with interested agencies and major stakeholders, ETEC is preparing to move forward with the next steps toward obtaining a license from the Federal Energy Regulatory Commission (FERC) to construct and operate the project.

The FERC has three different licensing processes that an applicant can use to obtain a hydropower license under Part I of the Federal Power Act. The default procedure is known as the Integrated Licensing Process (ILP), a relatively recent innovation that FERC introduced in 2002. Under FERC's current regulations, an applicant for either an original license or the relicensing of an existing project must use the ILP unless it obtains permission to use one of the two other licensing processes recognized by the Commission. Those processes are known as the Traditional Licensing Process (TLP), and the Alternative Licensing Process (ALP).

After careful consideration, ETEC has concluded that the Alternative Licensing Process is the most appropriate licensing vehicle for the Lake Livingston project. The ALP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate participation by interested agencies and stakeholders, and to improve communication and cooperation among the participants. Under the ALP, the applicant and its consultants prepare a Preliminary Draft Environmental Assessment (PDEA) after engaging in collaborative consultations with agencies and stakeholders and after conducting any necessary studies. The PDEA is submitted at the time the license application is filed.

Although the ILP provides a series of well-defined procedural steps and predictable timetables for licensing major hydropower developments involving multiple complex resource issues, the ILP can, however, result in needlessly lengthy procedures for projects with relatively straight-forward and benign resource impacts. Because the proposed Lake Livingston hydropower project would operate on a run-of-river basis, utilizing existing water releases that would otherwise be made in the ordinary course of reservoir operations, and because the project is not

Mr. Ronald Hebert, Jr.

October 24, 2007

Page 2

expected to involve complex environmental issues, ETEC believes that the ALP would be a more appropriate licensing vehicle than the ILP for this project. The ALP will allow the Lake Livingston Project to be licensed an approximately two-year process, whereas the ILP would likely involve a three-year process.

Additional information on the ALP and other FERC licensing processes can be found on the Commission's website at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/licen-pro.asp>.

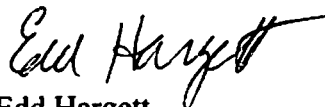
ETEC intends to file a Notice of Intent to file a license application (NOI) and a Pre-Application Document (PAD) with FERC on or about November 30, 2007. Under FERC regulations, these filings – which formally commence the licensing process – are required regardless of which process is utilized. At the time it submits the NOI and PAD, ETEC will also request FERC's permission to utilize the ALP in lieu of the ILP. In order for FERC to approve use of the ALP, ETEC must demonstrate that it has attempted to obtain a consensus among interested agencies and stakeholders that the ALP is an acceptable procedure for this Project.

The purpose of this letter is to request your agency's concurrence in the use of the Alternative Licensing process for the Lake Livingston Hydroelectric Project. We have enclosed a proposed pre-application Communications Protocol as well as a proposed ALP Process Plan and Schedule for the Project licensing. Please indicate your concurrence (or any concerns) with use of the ALP by either fax, regular mail or e-mail addressed to ETEC's licensing counsel within 30 days of the date of this letter. His contact information is as follows:

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson Street, N.W.  
Eighth Floor, West Tower  
Washington, DC 20007  
202-342-0800 (Voice)  
202-342-0807 (Fax)  
[Michael.McCarty@bbrslaw.com](mailto:Michael.McCarty@bbrslaw.com)

If you have any questions about the Project or the proposed licensing procedure, please feel free to contact me or the attorney listed above. ETEC looks forward to your participation in the Project licensing.

Sincerely,



Edd Hargett  
Manager

Enclosures

## PREVIOUSLY CONSULTED AGENCY LETTER RECIPIENTS

Mr. Ronald Hebert, Jr.  
Water Program Manager  
Texas Commission on Environmental  
Quality  
3870 Eastex Freeway  
Beaumont, TX 77703

Ms. Edith A. Erlfling  
Fish & Wildlife Biologist, Ecological  
Services  
U.S. Fish & Wildlife Service  
Department of the Interior  
17629 El Camino Real, No. 211  
Houston, TX 77058-3051

Mr. Dan Eden  
Deputy Director  
Texas Commission on Environmental  
Quality  
Office of Permitting, Remediation &  
Registration  
MC-122, P.O. Box 13087  
Austin, TX 78711-3087

Mr. Earl F. Lott  
Special Assistant  
Texas Commission on Environmental  
Quality  
Office of Permitting, Remediation &  
Registration  
MC-122, P.O. Box 13087  
Austin, TX 78711-3087

Mr. Charles W. Maguire  
Manager, Water Quality Assessment Section  
Texas Commission on Environmental  
Quality  
Wastewater Permitting, Water Quality  
Division  
MC-148, P.O. Box 13087  
Austin, TX 78711-3087

Mr. Todd Chenoweth  
Director, Water Supply Division  
Texas Commission on Environmental  
Quality  
MC-154, P.O. Box 13087  
Austin, TX 78711-3087

Mr. J. Rollin MacRae  
Wetlands Conservation Program Leader  
Inland Fisheries Division, Texas Parks &  
Wildlife  
4200 Smith School Road  
Austin, TX 78744

Ms. Cindy Loeffler  
Chief, Water Resources Branch  
Texas Parks & Wildlife  
4200 Smith School Road  
Austin, TX 78744

Mr. Bruce H. Bennett  
North Evaluation Unit Leader—Regulatory  
Branch  
U.S. Army Corps of Engineers  
Galveston District  
P.O. Box 1229  
Galveston, TX 77553-1229



# East Texas Electric Cooperative, Inc.

P.O. Box 631623, Nacogdoches, Texas 75963-1623 • Telephone (936) 560-9532 • Fax (936) 560-9215

October 24, 2007

**MAILED**  
10/25/07 C. Clifton  
Originals mailed  
Copies to all  
Mgrs 10-25-07  
C. Clifton

The Honorable Pat Eversole  
Mayor  
City of Coldspring  
P.O. Box 247  
Coldspring, TX 77331

RE: Lake Livingston Hydroelectric Project –  
Request for consent to utilize FERC Alternative Licensing Process

Dear Mayor Eversole:

The East Texas Electric Cooperative, Inc. (ETEC) supplies electric power at wholesale to ten distribution cooperatives that collectively serve over 307,000 retail accounts in 46 counties in eastern Texas. To diversify its power supply portfolio and acquire a new source of clean, renewable, cost-effective energy, ETEC intends to develop a hydroelectric power plant at Lake Livingston Dam. ETEC plans to develop the hydropower facilities in cooperation with the Trinity River Authority of Texas (TRA), which owns and operates the dam and reservoir, and with the City of Houston, which has rights to 70% of the water stored in the lake for municipal and industrial water supplies.

As presently envisioned, the powerplant will include three 8-megawatt generating units, for a total installed capacity of 24 MW. The plant will generate an average of 127 gigawatt-hours of energy annually, and the project will provide local jobs and a source of economic development in eastern Texas. ETEC does not propose to change the way Lake Livingston is presently operated. Rather, it intends to use whatever water TRA would otherwise release through the project spillway, and run it through penstocks and turbines to generate clean, renewable electricity. The water will be discharged from the power plant directly below the dam, into the same stilling basin as water is presently released through the spillway gates. The project will have no adverse impact on reservoir elevations, river flows, fishing, or existing recreational facilities above or below the dam.

Before it can construct and operate the plant, ETEC must obtain a license under the Federal Power Act from the Federal Energy Regulatory Commission (FERC). ETEC already has completed an initial round of consultations with resource agencies that have a major role in examining the potential environmental and socio-economic impacts of the proposed project. ETEC is now preparing to move forward with the next steps toward obtaining a FERC license.

The FERC will conduct a public licensing proceeding under Part I of the Federal Power Act, during which it will fully consider the costs, benefits, and environmental impacts of the proposed hydropower facility. Any individual or entity with an interest in the project is welcome to participate, and ample public notice of any scoping meetings will be given through local newspapers. The FERC has three different licensing processes that an applicant can use to obtain a hydropower license. The default procedure is known as the Integrated Licensing Process (ILP), a relatively recent innovation that FERC introduced in 2002. Under FERC's current regulations, an applicant must use the ILP unless it obtains permission to use one of the two other licensing processes recognized by the Commission. Those processes are known as the Traditional Licensing Process (TLP), and the Alternative Licensing Process (ALP).

After careful consideration, ETEC has concluded that the Alternative Licensing Process is the most appropriate licensing vehicle for the Lake Livingston project. The ALP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate participation by interested agencies and stakeholders, and to improve communication and cooperation among the participants. Under the ALP, the applicant and its consultants prepare a Preliminary Draft Environmental Assessment (PDEA) after engaging in collaborative consultations with agencies and stakeholders and after conducting any necessary field studies. The PDEA is submitted at the time the license application is filed.

Although the ILP can be an efficient process for the licensing of major hydropower developments involving multiple complex resource issues, the ILP can, however, result in needlessly lengthy procedures for projects with relatively straightforward and benign resource impacts. Because the proposed Lake Livingston hydropower project would operate on a run-of-river basis, utilizing existing water releases that would otherwise be made in the ordinary course of reservoir operations, and because the project is not expected to involve complex environmental issues, ETEC believes that the ALP would be a more appropriate licensing vehicle than the ILP for this project. The ALP will allow the Lake Livingston Project to be licensed over an approximately two-year process, whereas the ILP would likely involve a three-year process. It also bears mentioning that FERC previously issued a license to TRA for a similar but larger project at the same location, without any environmental or community opposition. TRA surrendered that license in the late 1980s because project economics were not favorable at that time.

Additional information on the ALP and other FERC licensing processes can be found on the Commission's website at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/licen-pro.asp>.

ETEC intends to file a Notice of Intent to file a license application (NOI) and a Pre-Application Document (PAD) with FERC on or about November 30, 2007. Under FERC regulations, these filings – which formally commence the licensing process – are required regardless of which process is utilized. At the time it submits the NOI and PAD, ETEC will also request FERC's permission to utilize the ALP in lieu of the ILP. In order for FERC to approve use of the ALP, ETEC must demonstrate that it has attempted to obtain a consensus among interested agencies,

The Honorable Pat Eversole  
October 24, 2007  
Page 3

stakeholders and local governmental bodies that the ALP is an acceptable procedure for this Project.

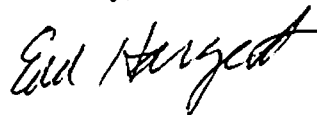
The purpose of this letter is to request the City of Coldspring's concurrence in the use of the Alternative Licensing process for the Lake Livingston Hydroelectric Project. We have enclosed a proposed pre-application Communications Protocol as well as a proposed ALP Process Plan and Schedule for the Project licensing. Please indicate your concurrence (or any concerns) with use of the ALP by either fax, regular mail or e-mail addressed to ETEC's licensing counsel within 30 days of the date of this letter. His contact information is as follows:

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, D.C. 20007  
202-342-0800 (Voice)  
202-342-0807 (Fax)  
[Michael.McCarty@bbrslaw.com](mailto:Michael.McCarty@bbrslaw.com)

Please note that your concurrence in the proposed the licensing *process* does not bind the City of Coldspring to any position on any issue that may arise during the actual licensing proceeding. It simply means that you have no objection to the use of the ALP as an appropriate licensing vehicle for the project.

If you have any questions about the Project or the proposed licensing procedure, please feel free to contact me or the attorney listed above. ETEC looks forward to your participation in the Project licensing.

Sincerely,



Edd Hargett  
Manager

Enclosures



**OTHER AGENCY, LOCAL GOVERNMENT, AND  
STAKEHOLDER LETTER RECIPIENTS**

Ms. Lori Thomas  
City Secretary  
City of Goodrich  
P.O. Box 277  
Goodrich, TX 77335

The Honorable Frank Rich  
Mayor  
City of Riverside  
P.O. Box 623  
Riverside, TX 77367

Ms. Joan Harvey  
City Secretary  
City of Riverside  
P.O. Box 623  
Riverside, TX 77367

The Honorable Lillian Bratton  
Mayor  
City of Point Blank  
P.O. Box 474  
Point Blank, TX 77364

The Honorable Ben R. Ogletree, Jr.  
Mayor  
City of Livingston  
200 West Church Street  
Livingston, TX 77351

The Honorable Lew Vail  
Mayor  
City of Onalaska  
P.O. Box 880  
Onalaska, TX 77360

The Honorable Obie Daniels  
Mayor  
City of Shepherd  
11020 Highway 150  
Shepherd, TX 77360

The Honorable Pat Eversole  
Mayor  
City of Coldspring  
P.O. Box 247  
Coldspring, TX 77331

The Honorable Lyle Stubbs  
Mayor  
City of Trinity  
P.O. Box Drawer 431  
Trinity, TX 75862

The Honorable John Thompson  
County Judge  
Polk County  
101 West Church Street, Suite 300  
Livingston, TX 77351

The Honorable Fritz Faulkner  
County Judge  
County of San Jacinto  
1 State Highway 150, Room 5  
Coldspring, TX 77331

The Honorable Mark Evans  
County Judge  
Trinity County  
P.O. Box 457  
Groveton, TX 75845

Ms. Sharon Parrish  
Marine & Wetlands Section Chief  
Environmental Protection Agency–Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Mr. Philip Crocker  
Watershed Management Section Chief  
Environmental Protection Agency–Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Bureau Of Indian Affairs  
Southern Plains Regional Office  
P.O. Box 368  
Anadarko, OK 73005

Federal Emergency Management Agency  
Regional Office, Federal Regional Center  
800 North Loop 288  
Denton, TX 76201-3698

State Historic Preservation Office  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711-2276

NOAA Fisheries Service  
Office Of Habitat Conservation  
1315 East-West Highway  
Silver Spring, MD 20910

NOAA Fisheries Service  
Southeast Regional Office  
263 13th Avenue South  
St. Petersburg, FL 33701

The Honorable Danny Pierce  
County Judge  
Walker County  
1100 University Avenue, Room 204  
Huntsville, TX 77340

Texas Water Development Board  
1700 North Congress Avenue, Suite 513  
Austin, TX 78711

Mr. Richard N. Countiss, President  
Cape Royale Property Owners Association  
6 Sales Drive  
Coldspring, TX 77331

Ms. Laura Henley Dean  
Program Analyst  
Advisory Council on Historic Preservation  
Federal Permitting, Licensing and  
Assistance Section  
1100 Pennsylvania Ave. NW, Suite 809  
Washington, DC 20004

Mr. Eddie R. Fisher  
Director of Coastal Stewardship  
Coastal Resources Program Area  
Texas General Land Office  
P.O. Box 12873  
Austin, TX 78711-2873

Mr. Stephen R. Spencer  
Regional Environmental Officer  
U.S. Department of the Interior  
Office of Environmental Policy and  
Compliance  
P.O. Box 26567 (MC-9)  
Albuquerque, NM 87125-6567

Mr. Jeff Taylor  
Deputy Director, Public Utilities Division  
City of Houston Public Works and  
Engineering  
P.O. Box 1562  
Houston, TX 77002

---

BRICKFIELD BURCHETTE  
RITTS & STONE, PC

---

November 30, 2007

Mr. Ken Kramer, Chapter Director  
Lone Star Chapter, Sierra Club  
1202 San Antonio  
Austin, TX 78701

RE: Lake Livingston Hydroelectric Project –  
FERC Alternative Licensing Process

Dear Mr. Kramer:

We serve as special counsel to the East Texas Electric Cooperative, Inc. (ETEC), a generation and transmission cooperative headquartered in Nacogdoches that supplies electric power at wholesale to ten distribution cooperatives, which in turn collectively serve over 307,000 retail accounts in 46 counties in eastern Texas. To diversify its power supply portfolio and acquire a new source of clean, renewable, cost-effective energy, ETEC intends to develop a hydroelectric power plant at Lake Livingston Dam on the Trinity River. ETEC plans to develop the hydropower facilities in cooperation with the Trinity River Authority of Texas (TRA), which owns and operates the dam and reservoir, and with the City of Houston, which has rights to 70% of the water stored in the lake for municipal and industrial water supplies.

As presently envisioned, the powerplant will include three 8-megawatt generating units, for a total installed capacity of 24 MW. The plant will generate an average of 127 gigawatt-hours of energy annually, and the project will provide local jobs and a source of economic development in eastern Texas. ETEC does not propose to change the way Lake Livingston is presently operated. Rather, it intends to use water that TRA would otherwise release through the project spillway, and run it through penstocks and turbines to generate clean, renewable electricity. The water will be discharged from the power plant back into the Trinity River directly below the dam without de-watering any reach of the river. ETEC intends that the project will have no adverse impact on reservoir elevations, river flows, fishing, or existing recreational facilities above or below the dam.

Before it can construct and operate the plant, ETEC must obtain a license under the Federal Power Act from the Federal Energy Regulatory Commission (FERC). The FERC issued a three-year preliminary permit to ETEC on April 13, 2006, during the term of which ETEC maintains priority to develop the power facilities while undertaking various engineering and environmental studies and conducting consultations with interested federal, state and local agencies as well as non-governmental stakeholder groups. ETEC already has completed an initial round of consultations with resource

agencies that have a major role in examining the potential environmental and socio-economic impacts of the proposed project, and is now preparing to move forward with the next steps toward obtaining a FERC license.

The FERC will conduct a public licensing proceeding under Part I of the Federal Power Act, during which it will fully consider the costs, benefits, and environmental impacts of the proposed hydropower facility. Any individual or entity with an interest in the project is welcome to participate, and ample public notice of any scoping meetings will be given through local newspapers. The FERC has three different licensing processes that an applicant can use to obtain a hydropower license. The default procedure is known as the Integrated Licensing Process (ILP), a relatively recent innovation that FERC introduced in 2002. Under FERC's current regulations, an applicant must use the ILP unless it obtains permission to use one of the two other licensing processes recognized by the Commission. Those processes are known as the Traditional Licensing Process (TLP), and the Alternative Licensing Process (ALP).

After careful consideration, ETEC has concluded that the Alternative Licensing Process is the most appropriate licensing vehicle for the Lake Livingston project. The ALP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate participation by interested agencies and stakeholders, and to improve communication and cooperation among the participants. Under the ALP, the applicant and its consultants prepare a Preliminary Draft Environmental Assessment (PDEA) after engaging in collaborative consultations with agencies and stakeholders and after conducting any necessary field studies. The PDEA is submitted at the time the license application is filed.

Although the ILP can be an efficient process for the licensing of major hydropower developments involving multiple complex resource issues, the ILP can, however, result in needlessly lengthy procedures for projects with relatively straightforward and benign resource impacts. Because the proposed Lake Livingston hydropower project would operate on a run-of-river basis, utilizing existing water releases that would otherwise be made in the ordinary course of reservoir operations, and because the project is not expected to involve complex environmental issues, ETEC believes that the ALP would be a more appropriate licensing vehicle than the ILP for this project. The ALP will allow the Lake Livingston Project to be licensed over an approximately two-year process, whereas the ILP would likely involve at least a three-year process. It also bears mentioning that FERC previously issued a license to TRA for a similar but larger project at the same location, without any environmental or community opposition. TRA surrendered that license in the late 1980s because project economics were not favorable at that time.

Mr. Ken Kramer  
November 30, 2007  
Page 3

Additional information on the ALP and other FERC licensing processes can be found on the Commission's website at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/licen-pro.asp>.

ETEC intends to file a Notice of Intent to file a license application (NOI) and a Pre-Application Document (PAD) with FERC within the next few weeks. Under FERC regulations, these filings – which formally commence the licensing process – are required regardless of which process is utilized. At the time it submits the NOI and PAD, ETEC will also request FERC's permission to utilize the ALP in lieu of the ILP. In order for FERC to approve use of the ALP, ETEC must demonstrate that it has attempted to obtain a consensus among interested agencies, stakeholders and local governmental bodies that the ALP is an acceptable procedure for this Project. We will send you a copy of each of these filings at the time they are submitted to FERC.

Because the Lone Star Chapter of the Sierra Club has an active interest in protecting the State's water resources and is a participant in the Texas Water Matters program, the chapter's participation in the Project's licensing process is welcomed, and your concurrence in ETEC's request to utilize the FERC ALP is solicited. We have enclosed a proposed pre-application Communications Protocol as well as a proposed ALP Process Plan and Schedule. It should be noted that the schedule contains target dates for milestones during the licensing process, but the schedule is subject to modification as circumstances evolve. We would appreciate your expressing concurrence (or any concerns) with ETEC's proposed use of the ALP by contacting me within 30 days of the date of this letter. My contact information is as follows:

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, D.C. 20007  
202-342-0800 (Voice)  
202-342-0807 (Fax)  
[Michael.McCarty@bbrslaw.com](mailto:Michael.McCarty@bbrslaw.com)

Please note that the Lone Star Chapter's concurrence in the proposed the licensing *process* does not bind it to any position on any issue that may arise during the actual licensing proceeding. It simply means that you have no objection to the use of the ALP as an appropriate licensing vehicle for the project.

If you have any questions about the Project or the proposed licensing procedure, please feel free to contact me or any other member of ETEC's licensing team (listed in an

Mr. Ken Kramer  
November 30, 2007  
Page 4

appendix to the enclosed Communications Protocol). ETEC looks forward to your participation in the Project licensing.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael N. McCarty". The signature is fluid and cursive, with a large, stylized initial "M".

Michael N. McCarty  
Special counsel to  
East Texas Electric Cooperative, Inc.

**TEXAS WATER MATTERS PROGRAM PARTICIPATING NON-GOVERNMENTAL  
ORGANIZATION LETTER RECIPIENTS**

Ms. Laura Brock Marbury  
Senior Water Analyst  
Environmental Defense  
44 East Avenue, Suite 304  
Austin, TX 78701

Mr. Ken Kramer, Chapter Director  
Lone Star Chapter, Sierra Club  
1202 San Antonio  
Austin, TX 78701

Mr. Myron Hess  
Manager, Texas Water Programs  
Gulf States Natural Resource Center  
National Wildlife Federation  
44 East Avenue, Suite 200  
Austin, TX 78701

# **East Texas Electric Cooperative, Inc.**

P.O. Box 631623, Nacogdoches, Texas 75963-1623 • Telephone (936) 560-9532 • Fax (936) 560-9215

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October 23, 2007

Ms. Sharon Miller, Director  
Public Information Office  
Alabama-Coushatta Tribe  
Route 3, Box 640  
Livingston, TX 77351

RE: Lake Livingston Hydroelectric Project –  
Request for consent to utilize FERC Alternative Licensing Process

Dear Ms. Miller:

You will recall that on July 24 of this year, Dan Wittliff of GDS Associates in Austin met with you and other representatives of the Alabama-Coushatta Tribe to discuss a proposal by the East Texas Electric Cooperative, Inc. (ETEC) to develop a hydroelectric power project at Lake Livingston Dam. ETEC appreciates the cordial reception you and your colleagues gave Mr. Wittliff, and the time you took to learn about our proposed hydropower project.

Having completed a preliminary round of discussions with interested agencies and major stakeholders, ETEC is now preparing to move forward with the next steps toward obtaining a license from the Federal Energy Regulatory Commission (FERC) to construct and operate the hydroelectric facilities.

The FERC has three different licensing processes that an applicant can use to obtain a hydropower license under Part I of the Federal Power Act. The default procedure is known as the Integrated Licensing Process (ILP), a relatively recent innovation that FERC introduced in 2002. Under FERC's current regulations, an applicant for either an original license or the relicensing of an existing project must use the ILP unless it obtains permission to use one of the two other licensing processes recognized by the Commission. Those processes are known as the Traditional Licensing Process (TLP), and the Alternative Licensing Process (ALP).

After careful consideration, ETEC has concluded that the Alternative Licensing Process is the most appropriate licensing vehicle for the Lake Livingston project. The ALP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate participation by interested agencies and stakeholders, and to improve communication and cooperation among the participants. Under the ALP, the applicant and its consultants prepare a Preliminary Draft Environmental Assessment (PDEA) after engaging in collaborative consultations with agencies and stakeholders and after conducting any necessary studies. The PDEA is submitted at the time the license application is filed.

Although the ILP is an efficient process for licensing substantial hydropower developments involving multiple complex resource issues, the ILP can, however, result in needlessly lengthy procedures for projects with relatively straightforward and benign resource impacts. Because the proposed Lake Livingston hydropower project would operate on a run-of-river basis, utilizing



Ms. Sharon Miller  
October 23, 2007  
Page 2 of 2

existing water releases that would otherwise be made in the ordinary course of reservoir operations, and because the project is not expected to involve complex environmental issues, ETEC believes that the ALP would be a more appropriate licensing vehicle than the ILP for this project. The ALP will allow the Lake Livingston Project to be licensed an approximately two-year process, whereas the ILP would likely involve a three-year process. Despite its shorter duration in the context of the Lake Livingston Project, the ALP will fully examine and address any environmental and recourse issues associated with the facilities, including the project's potential impact on Tribal cultural resources.

Additional information on the ALP and other FERC licensing processes can be found on the Commission's website at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/licen-pro.asp>.

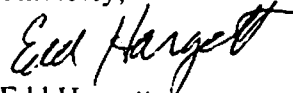
ETEC intends to file a Notice of Intent to file a license application (NOI) and a Pre-Application Document (PAD) with FERC on or about November 30, 2007. Under FERC regulations, these filings – which formally commence the licensing process – are required regardless of which process is utilized. At the time it submits the NOI and PAD, ETEC will also request FERC's permission to utilize the ALP in lieu of the ILP. In order for FERC to approve use of the ALP, ETEC must demonstrate that it has attempted to obtain a consensus among interested agencies and stakeholders that the ALP is an acceptable procedure for this Project.

The purpose of this letter is to request the Tribe's concurrence in the use of the Alternative Licensing process for the Lake Livingston Hydroelectric Project. We have enclosed a proposed pre-application Communications Protocol as well as a proposed ALP Process Plan and Schedule for the Project licensing. Please indicate your concurrence (or any concerns) with use of the ALP by either fax, regular mail or e-mail addressed to ETEC's licensing counsel within 30 days of the date of this letter. His contact information is as follows:

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson Street, N.W.  
Eighth Floor, West Tower  
Washington, DC 20007  
202-342-0800 (Voice)  
202-342-0807 (Fax)  
[Michael.McCarty@bbrslaw.com](mailto:Michael.McCarty@bbrslaw.com)

If you have any questions about the Project or the proposed licensing procedure, please feel free to contact either Dan Wittliff (512-494-0369) or the attorney listed above. ETEC looks forward to the Tribe's participation in the Project licensing.

Sincerely,



Edd Hargett  
Manager

Enclosures

# **ATTACHMENT D**

**Correspondence Concurring in Proposed Alternative Licensing Procedures**

**Michael McCarty**

---

**From:** Stephen\_Spencer@ios.doi.gov  
**Sent:** Tuesday, November 20, 2007 12:11 PM  
**To:** Michael McCarty  
**Subject:** Department of the Interior Consent to Use of Alternative Licensing Process, Lake Livingston Hydroelectric Project

Mr. McCarty: In response to the request for Department of the Interior consent to use the Alternative Licensing Process (ALP) for the Lake Livingston Hydroelectric Project, I have polled the appropriate bureaus within the Department and received no objections. Although I don't believe it is required by FERC that the Department to give its consent to the use of the ALP at this point, please consider this to be the Department's consent. If you have questions, feel free to give me a call or contact me by e-mail.

Sincerely,

Stephen R. Spencer, Ph.D.  
Regional Environmental Officer  
U.S. Department of the Interior  
Office of Environmental Policy and Compliance  
Mailing Address:  
P.O. Box 26567 (MC-9)  
Albuquerque, New Mexico 87125-6567  
Street Address:  
1001 Indian School Road, NW, Suite 348  
Albuquerque, New Mexico 87104  
Phone: (505) 563-3572 Fax: (505) 563-3066 Cell: (505) 249-2462  
E-mail: Stephen\_Spencer@ios.doi.gov  
<http://www.doi.gov/oepec/albuquerque.html>

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 5, 2007

Mr. Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1025 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, DC 20007

BY FAX: (202) 342-0807

RE: Lake Livingston Hydroelectric Project  
FERC Project No. 12632

Dear Mr. McCarty:

This letter is in response to correspondence dated October 24, 2007, from Edd Hargett, Manager, East Texas Electric Cooperative, Inc. (ETEC). Mr. Hargett requests the concurrence of the Texas Commission on Environmental Quality (TCEQ) to ETEC's proposed use of "alternative licensing procedures" (ALP) under section 4.34(i) of the Federal Energy Regulatory Commission (FERC) regulations for the initial licensing of the Lake Livingston Hydroelectric Project (Project).

The TCEQ concurs that use of the ALP is appropriate for the proposed project. While TCEQ has no objection to the use of the ALP, TCEQ has concerns about ETEC's proposed ALP schedule. As you know, several TPWD staff discussed this initial concern with the compressed schedule with you and other ETEC representatives in a November 28, 2007 conference call. TCEQ intends to work with ETEC and other stakeholders to refine the proposed schedule to best meet the needs of all parties.

Should you have any additional questions, please contact Mr. Chris Loft, Water Supply Division, TCEQ, P. O. Box 13087, (512) 239-4715. For questions regarding 401 certification, please contact Ms. Lori Hamilton, Water Quality Standards Team, at (512) 239-0683.

Sincerely,

A handwritten signature in cursive script that reads "Robin Smith".

Robin Smith  
Attorney  
Environmental Law Division

Mr. Michael N. McCarty  
December 5, 2007  
Page 2

cc: Mike Cowan, Manager, Office of Permitting, Remediation, and Registration,  
TCEQ  
Todd Chenoweth, Director, Water Supply Division, TCEQ  
L'Oreal Stepney, Director, Water Quality Division, TCEQ  
Earl Lott, Manager, Office of Permitting, Remediation, and Registration, TCEQ



December 4, 2007

COMMISSIONERS

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ROBERT L. COOK  
EXECUTIVE DIRECTOR

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson Street, N.W.  
Eighth Floor, West Tower  
Washington, D.C. 20007

RE: Lake Livingston Hydroelectric Project; East Texas Electric Cooperative, Inc.

Dear Mr. McCarty:

By letter of October 24, 2007, Edd Hargett, Manager of East Texas Electric Cooperative, Inc. (ETEC), requested Texas Parks and Wildlife Department (TPWD) provide to you its concurrence to ETEC's use of the Alternative Licensing Process (ALP) of the Federal Energy Regulatory Commission in the licensing of the Lake Livingston Hydroelectric Project.

TPWD believes the proposed project is appropriate for governance by the ALP that requires early consultation with resource agencies and other stakeholders and offers opportunities for parties to collaborate on identification of environmental issues and studies. While TPWD has no objection to the use of the ALP, TPWD has concerns about ETEC's proposed ALP schedule. As you know, several TPWD staff discussed this initial concern with the compressed schedule with you and other ETEC representatives in a November 28, 2007 conference call. TPWD intends to work with ETEC and other stakeholders to refine the proposed schedule to best meet the needs of all parties.

Thank you for your attention to this matter. Should you have additional questions, please contact Mr. Kevin Mayes, TPWD-Inland Fisheries, PO Box 1685, San Marcos, TX 78667; (512) 754-6844 X25; kevin.mayes@tpwd.state.tx.us.

Sincerely,

Colette Barron Bradsby  
Attorney, Texas Parks and Wildlife Department



Take a kid  
hunting or fishing



Visit a state park  
or historic site

# East Texas Electric Cooperative, Inc.

P.O. Box 631623, Nacogdoches, Texas 75963-1623 • Telephone (936) 560-9532 • Fax (936) 560-9215

October 24, 2007

RECEIVED  
OCT 29 2007  
THC - Nacogdoches

State Historic Preservation Office  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711-2276

RE: Lake Livingston Hydroelectric Project –  
Request for consent to utilize FERC Alternative Licensing Process

Dear Sir or Madam:

The East Texas Electric Cooperative, Inc. (ETEC) supplies electric power at wholesale to ten distribution cooperatives that collectively serve over 307,000 retail accounts in 46 counties in eastern Texas. To diversify its power supply portfolio and acquire a new source of clean, renewable, cost-effective energy, ETEC intends to develop a hydroelectric power plant at Lake Livingston Dam. ETEC plans to develop the hydro power facilities in cooperation with the Trinity River Authority of Texas (TRA), which owns and operates the dam and reservoir, and with the City of Houston, which has rights to 70% of the water stored in the lake for municipal and industrial water supplies.

As presently envisioned, the powerplant will include three 8-megawatt generating units, for a total installed capacity of 24 MW. The plant will generate an average of 127 gigawatt-hours of energy annually, and the project will provide local jobs and a source of economic development in eastern Texas. ETEC does not propose to change the way Lake Livingston is presently operated. Rather, it intends to use whatever water TRA would otherwise release through the project spillway, and run it through penstocks and turbines to generate clean, renewable electricity. The water will be discharged from the power plant directly below the dam, into the same stilling basin as water is presently released through the spillway gates. The project will have no adverse impact on reservoir elevations, river flows, fishing, or existing recreational facilities above or below the dam.

Before it can construct and operate the plant, ETEC must obtain a license under the Federal Power Act from the Federal Energy Regulatory Commission (FERC). ETEC already has completed an initial round of consultations with resource agencies that have a major role in examining the potential environmental and socio-economic impacts of the proposed project. ETEC is now preparing to move forward with the next steps toward obtaining a FERC license.

CA  
DEC 03 2007

October 24, 2007

Page 2

The FERC will conduct a public licensing proceeding under Part I of the Federal Power Act, during which it will fully consider the costs, benefits, and environmental impacts of the proposed hydropower facility. Any individual or entity with an interest in the project is welcome to participate, and ample public notice of any scoping meetings will be given through local newspapers. The FERC has three different licensing processes that an applicant can use to obtain a hydropower license. The default procedure is known as the Integrated Licensing Process (ILP), a relatively recent innovation that FERC introduced in 2002. Under FERC's current regulations, an applicant must use the ILP unless it obtains permission to use one of the two other licensing processes recognized by the Commission. Those processes are known as the Traditional Licensing Process (TLP), and the Alternative Licensing Process (ALP).

After careful consideration, ETEC has concluded that the Alternative Licensing Process is the most appropriate licensing vehicle for the Lake Livingston project. The ALP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate participation by interested agencies and stakeholders, and to improve communication and cooperation among the participants. Under the ALP, the applicant and its consultants prepare a Preliminary Draft Environmental Assessment (PDEA) after engaging in collaborative consultations with agencies and stakeholders and after conducting any necessary field studies. The PDEA is submitted at the time the license application is filed.

Although the ILP can be an efficient process for the licensing of major hydropower developments involving multiple complex resource issues, the ILP can, however, result in needlessly lengthy procedures for projects with relatively straightforward and benign resource impacts. Because the proposed Lake Livingston hydropower project would operate on a run-of-river basis, utilizing existing water releases that would otherwise be made in the ordinary course of reservoir operations, and because the project is not expected to involve complex environmental issues, ETEC believes that the ALP would be a more appropriate licensing vehicle than the ILP for this project. The ALP will allow the Lake Livingston Project to be licensed over an approximately two-year process, whereas the ILP would likely involve a three-year process. It also bears mentioning that FERC previously issued a license to TRA for a similar but larger project at the same location, without any environmental or community opposition. TRA surrendered that license in the late 1980s because project economics were not favorable at that time.

Additional information on the ALP and other FERC licensing processes can be found on the Commission's website at: <http://www.ferc.gov/industries/hydropower/gen-info/licensing/licen-pro.asp>.

ETEC intends to file a Notice of Intent to file a license application (NOI) and a Pre-Application Document (PAD) with FERC on or about November 30, 2007. Under FERC regulations, these filings – which formally commence the licensing process – are required regardless of which process is utilized. At the time it submits the NOI and PAD, ETEC will also request FERC's permission to utilize the ALP in lieu of the ILP. In order for FERC to approve use of the ALP, ETEC must demonstrate that it has attempted to obtain a consensus among interested agencies,



October 24, 2007

Page 3

stakeholders and local governmental bodies that the ALP is an acceptable procedure for this Project.

The purpose of this letter is to request the State Historic Preservation Office's concurrence in the use of the Alternative Licensing process for the Lake Livingston Hydroelectric Project. We have enclosed a proposed pre-application Communications Protocol as well as a proposed ALP Process Plan and Schedule for the Project licensing. Please indicate your concurrence (or any concerns) with use of the ALP by either fax, regular mail or e-mail addressed to ETEC's licensing counsel within 30 days of the date of this letter. His contact information is as follows:

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, D.C. 20007  
202-342-0800 (Voice)  
202-342-0807 (Fax)  
[Michael.McCarty@bbrslaw.com](mailto:Michael.McCarty@bbrslaw.com)

<b>CONCUR</b>	
by	<i>William A. Pratt</i>
for	F. Lawrence Oaks
	State Historic Preservation Officer
Date	11/27/07
Track#	200801870

Please note that your concurrence in the proposed the licensing *process* does not bind the State Historic Preservation Office to any position on any issue that may arise during the actual licensing proceeding. It simply means that you have no objection to the use of the ALP as an appropriate licensing vehicle for the project. ✓

If you have any questions about the Project or the proposed licensing procedure, please feel free to contact me or the attorney listed above. ETEC looks forward to your participation in the Project licensing.

Sincerely,

*Edd Hargett*

Edd Hargett  
Manager

Enclosures



**Southern Region Office**

10,000.100

November 28, 2007

Mr. Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, D.C. 20007

Re: Lake Livingston Hydroelectric Project  
Alternative Licensing Process (ALP) Concurrence

Dear Mr. McCarty:

This letter is written in response to the request by East Texas Electric Cooperative, Inc. (ETEC) to transition from the Integrated Licensing Procedure (ILP) to the Alternative Licensing Procedure (ALP) under rules established by the Federal Energy Regulatory Commission (FERC) in the licensing process for the Lake Livingston Hydroelectric Project.

As the owner of Lake Livingston Dam and Reservoir and a cooperating partner in the Lake Livingston Hydroelectric Project along with ETEC and the City of Houston, the Trinity River Authority of Texas (TRA), by copy of this letter, offers its full concurrence and support of this procedural change to the use of the ALP format in the licensing process.

This method of filing and review should streamline the licensing procedure for a project that appears to be relatively straightforward and facilitate participation and review by all stakeholders and interested parties.

Should you require additional information or input from the Authority, please contact my office at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim R. Sims', written over a white background.

JIM R. SIMS  
Regional Manager  
Southern Region

/bc

c: Danny F. Vance, General Manager  
Trinity River Authority of Texas

P.O. Box 1554  
Huntsville, Texas 77342-1554  
(936) 295-5485  
Fax: (936) 295-9116



JOHN P. THOMPSON  
COUNTY JUDGE

Thursday, November 01, 2007

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, D.C. 20007

Re: Lake Livingston Hydroelectric Project  
ETEC Request for consent to utilize FERC Alternative Licensing Process

Mr. McCarty:

This letter will serve as Polk County's concurrence in the use of the Alternative Licensing Process for the Lake Livingston Hydroelectric Project, noting that such concurrence does not bind Polk County to any position on any issue that may arise during the actual licensing proceeding.

Sincerely,

John P. Thompson  
County Judge  
Polk County, Texas



Fritz Faulkner  
County Judge

1 State Hwy 150, Room 5  
Coldspring, TX 77331

Phone (936) 653-4331  
Fax (936) 653-3970

November 16, 2007

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
Via e-mail [michael.mccarty@bbslaw.com](mailto:michael.mccarty@bbslaw.com)

Re: Lake Livingston Hydroelectric Project –  
Approval for Request for consent to utilize FERC Alternative Licensing Process

Dear Mr. McCarty,

San Jacinto County Commissioners' Court met in a regular session on November 13, 2007; the court discussed and approved San Jacinto's concurrence in the use of the Alternative Licensing process for the Lake Livingston Hydroelectric Project.

If you have any question or if additional information is needed please give me a call.

Sincerely,

Tracy Novosad  
Court Coordinator to  
San Jacinto County Judge

## OFFICE OF THE COUNTY JUDGE

---

DANNY PIERCE  
Walker County Judge  
(936) 436-4910  
(936) 436-4914 FAX

Walker County Courthouse  
1100 University Avenue  
Huntsville, Texas 77340

November 13, 2007


Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson St. NW  
Eighth Floor, West Tower  
Washington, D.C. 20007

Re: Lake Livingston Hydroelectric Project  
ETEC Request for consent to utilize FERC Alternative Licensing Process

Mr. McCarty:

This letter will serve as Walker County's concurrence in the use of the Alternative Licensing Process for the Lake Livingston Hydroelectric Project, noting that such concurrence does not bind Walker County to any position on any issue that may arise during the actual licensing proceeding.

Sincerely,

  
Danny Pierce  
County Judge  
Walker County



# City of Livingston, Texas

A Texas Main Street City Since 2005

200 West Church Street, Livingston, Texas 77351-3281

Telephone: (936) 327-4311 Fax: (936) 327-7608

www.cityoflivingston-tx.com

November 16, 2007

Mr. Michael N. McCarty  
Brickfield, Burchette, Ritts and Stone, PC  
1015 Thomas Jefferson Street, NW  
Eighth Floor, West Tower  
Washington, D.C. 20007

Re: East Texas Electric Cooperative, Inc.  
Lake Livingston Hydroelectric Project  
Request for Consent to Utilize  
FERC Alternative Licensing Process

Dear Mr. McCarty:

On behalf of the Mayor and City Council of the City of Livingston, please accept this letter as verification of concurrence of the City of Livingston in the use of the Alternative Licensing process for the Lake Livingston Hydroelectric Project. Concurrence in the use of the ALP was approved at the regular meeting of the Livingston City Council held November 13, 2007.

This letter will also acknowledge receipt of the Draft Communications Protocol for Licensing of the Lake Livingston Hydroelectric Project (FERC Project No. 12632) as furnished by East Texas Electric Cooperative, Inc. on October 24, 2007. While the City of Livingston has no objection to use of the Alternative Licensing Process for the Lake Livingston Hydroelectric Project, the City reserves its right to review any issue that may arise during the proceedings, as described in the protocol and by Mr. Edd Hargett on behalf of East Texas Electric Cooperative, Inc. in his letter of October 24, 2007.

Please feel free to contact me if you have any questions or if there is anything further I can provide on behalf of the City of Livingston.

Sincerely,

**CITY OF LIVINGSTON, TEXAS**

  
Marilyn Sutton, City Manager

Ben R. Ogletree, Jr., Mayor

Marilyn Sutton, City Manager

Ellie Monteaux, City Secretary

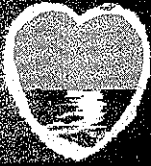
Council Members: Gene Bush, Clarke Evans, E. Ray Hill, Judy Cochran, Raymond Luna

Mr. Michael N. McCarty  
Brickfield, Burchette, Ritts and Stone, PC  
November 16, 2007  
Page 2

cc: Mr. Michael N. McCarty  
Brickfield, Burchette, Ritts and Stone, PC  
by Fax: (202.342.0807)

cc: Mr. Edd Hargett  
Manager  
East Texas Electric Cooperative, Inc.  
By Fax: (936.560.9215)

Welcome  
to  
Onalaska



Heart of  
Lake  
Livingston

# City of Onalaska

372 South FM 356

P.O. Box 880 • Onalaska, Texas 77360

Ph.: 936-646-5376 • Fax: 936-646-2833

Email: [onalaska@livingston.net](mailto:onalaska@livingston.net) • Web site: [www.cityofonalaska.us](http://www.cityofonalaska.us)

*Centennial Celebration October 2004*

---

Michael N. McCarty  
Brickfield, Burchette, Ritts & Stone, P.C.  
1015 Thomas Jefferson St NW  
Eighth Floor, West Tower  
Washington, D.C. 20007

Via fax 202-342-0807

November 26, m2007

Re: Texas Electric Coop., Inc.

Sirs,

In regard to the pending application from ETEC, Inc for the Lake Livingston Hydro Electric project, the City of Onalaska council is in agreement, at this time, to permit using the ALP in lieu of the longer ILP.

However we want to go on record as requesting that we be added to the list of very concerned entities for all future notices and activities. In reviewing the calendar of events furnished with the above cited letter we did not find where we had been noticed in the spring (May-June initial consultation with agencies, tribes and local governments) and since our community has the closest ties to the recreational use of the lake any activity that has the potential to "draw down" the lake is of major interest.

In the interest of time we are faxing this letter and forwarding a hard copy this date.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lewis Vail".

Lewis Vail  
Mayor



# **ATTACHMENT E**

## **Master Distribution List**

**FEDERAL AGENCIES**

Ms. Edith A. Erling  
Fish & Wildlife Biologist, Ecological Services  
U.S. Fish & Wildlife Service  
Department of the Interior  
17629 El Camino Real, No. 211  
Houston, TX 77058-3051

Mr. Bruce H. Bennett  
North Evaluation Unit Leader—Regulatory Branch  
U.S. Army Corps of Engineers  
Galveston District  
P.O. Box 1229  
Galveston, TX 77553-1229

Ms. Sharon Parrish  
Marine & Wetlands Section Chief  
Environmental Protection Agency—Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Mr. Philip Crocker  
Watershed Management Section Chief  
Environmental Protection Agency—Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Bureau Of Indian Affairs  
Southern Plains Regional Office  
P.O. Box 368  
Anadarko, OK 73005

Federal Emergency Management Agency  
Regional Office, Federal Regional Center  
800 North Loop 288  
Denton, TX 76201-3698

NOAA Fisheries Service  
Office Of Habitat Conservation  
1315 East-West Highway  
Silver Spring, MD 20910

NOAA Fisheries Service  
Southeast Regional Office  
263 13th Avenue South  
St. Petersburg, FL 33701

Ms. Laura Henley Dean  
Program Analyst  
Advisory Council on Historic Preservation  
Federal Permitting, Licensing and Assistance Section  
1100 Pennsylvania Ave. NW, Suite 809  
Washington, DC 20004

Mr. Stephen R. Spencer  
Regional Environmental Officer  
U.S. Department of the Interior  
Office of Environmental Policy and Compliance  
P.O. Box 26567 (MC-9)  
Albuquerque, NM 87125-6567

Stuart J. Marcus, Manager  
Trinity River National Wildlife Refuge  
P.O. Box 10015  
Liberty, TX 77575

#### **STATE AGENCIES**

Mr. Ronald Hebert, Jr.  
Water Program Manager  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, TX 77703

Mr. Dan Eden, Deputy Director  
Texas Commission on Environmental Quality  
Office of Permitting, Remediation & Registration  
MC-122, P.O. Box 13087  
Austin, TX 78711-3087

Mr. Earl F. Lott, Special Assistant  
Texas Commission on Environmental Quality  
Office of Permitting, Remediation & Registration  
MC-122, P.O. Box 13087  
Austin, TX 78711-3087

Mr. Charles W. Maguire  
Manager, Water Quality Assessment Section  
Texas Commission on Environmental Quality  
Wastewater Permitting, Water Quality Division  
MC-148, P.O. Box 13087  
Austin, TX 78711-3087

Mr. Todd Chenoweth  
Director, Water Supply Division  
Texas Commission on Environmental Quality  
MC-154, P.O. Box 13087  
Austin, TX 78711-3087

Mr. J. Rollin MacRae  
Wetlands Conservation Program Leader  
Inland Fisheries Division, Texas Parks & Wildlife  
4200 Smith School Road  
Austin, TX 78744

Ms. Cindy Loeffler  
Chief, Water Resources Branch  
Texas Parks & Wildlife  
4200 Smith School Road  
Austin, TX 78744

Danny F. Vance, General Manager  
Trinity River Authority of Texas  
5300 South Collins  
P.O. Box 60  
Arlington, TX 76004

Texas State Soil & Water  
Conservation Board  
P.O. Box 658  
Temple, TX 76503-0658

State Historic Preservation Office  
Texas Historical Commission  
P.O. Box 12276  
Austin, TX 78711-2276

Texas Water Development Board  
1700 North Congress Avenue, Suite 513  
Austin, TX 78711

Mr. Eddie R. Fisher  
Director of Coastal Stewardship  
Coastal Resources Program Area  
Texas General Land Office  
P.O. Box 12873  
Austin, TX 78711-2873

## **LOCAL GOVERNMENTS**

Ms. Lori Thomas  
City Secretary  
City of Goodrich  
P.O. Box 277  
Goodrich, TX 77335

The Honorable Frank Rich  
Mayor  
City of Riverside  
P.O. Box 623  
Riverside, TX 77367

Ms. Joan Harvey  
City Secretary  
City of Riverside  
P.O. Box 623  
Riverside, TX 77367

The Honorable Lillian Bratton  
Mayor  
City of Point Blank  
P.O. Box 474  
Point Blank, TX 77364

The Honorable Ben R. Ogletree, Jr.  
Mayor  
City of Livingston  
200 West Church Street  
Livingston, TX 77351

The Honorable Lew Vail  
Mayor  
City of Onalaska  
P.O. Box 880  
Onalaska, TX 77360

The Honorable Obie Daniels  
Mayor  
City of Shepherd  
11020 Highway 150  
Shepherd, TX 77360

The Honorable Pat Eversole  
Mayor  
City of Coldspring  
P.O. Box 247  
Coldspring, TX 77331

The Honorable Lyle Stubbs  
Mayor  
City of Trinity  
P.O. Box Drawer 431  
Trinity, TX 75862

The Honorable John Thompson  
County Judge  
Polk County  
101 West Church Street, Suite 300  
Livingston, TX 77351

The Honorable Fritz Faulkner  
County Judge  
County of San Jacinto  
1 State Highway 150, Room 5  
Coldspring, TX 77331

The Honorable Mark Evans  
County Judge  
Trinity County  
P.O. Box 457  
Groveton, TX 75845

The Honorable Danny Pierce  
County Judge  
Walker County  
1100 University Avenue, Room 204  
Huntsville, TX 77340

Mr. Jeff Taylor  
Deputy Director, Public Utilities Division  
City of Houston Public Works and Engineering  
P.O. Box 1562  
Houston, TX 77002

**NON-GOVERNMENTAL ORGANIZATIONS**

Ms. Laura Brock Marbury  
Senior Water Analyst  
Environmental Defense  
44 East Avenue, Suite 304  
Austin, TX 78701

Mr. Ken Kramer, Chapter Director  
Lone Star Chapter, Sierra Club  
1202 San Antonio  
Austin, TX 78701

Mr. Myron Hess  
Manager, Texas Water Programs  
Gulf States Natural Resource Center  
National Wildlife Federation  
44 East Avenue, Suite 200  
Austin, TX 78701

Mr. Richard N. Countiss, President  
Cape Royale Property Owners Association  
6 Sales Drive  
Coldspring, TX 77331

American Rivers  
1025 Vermont Avenue, N.W.  
Suite 720  
Washington, DC 20005

Hydropower Reform Coalition  
1025 Vermont Avenue, N.W.  
Suite 720  
Washington, DC 20005

Deep East Texas Council of Governments  
210 Premier Drive  
Jasper, TX 75951

**INDIAN TRIBES**

Ms. Sharon Miller, Director  
Public Information Office  
Alabama-Coushatta Tribe  
Route 3, Box 640  
Livingston, TX 77351

Kickapoo Traditional Tribe of Texas  
HC 1, Box 9700  
Eagle Pass, TX 78852