

**ATTACHMENT G**  
**CONSULTATION DOCUMENTATION**

-----Original Message-----

From: Dan Wittliff [mailto:Dan.Wittliff@gdsassociates.com]  
Sent: Thursday, August 23, 2007 2:16 PM  
To: Michael McCarty; Mel Koleber; Melissa Dubinsky; Brian Lawson  
Subject: FW: Coastal Zone Map and Rules

Mike,

This is the determination from GLO that they don't see an association between our project and the Texas Coastal Management Plan.

Dan

-----Original Message-----

From: Eddie Fisher [mailto:Eddie.Fisher@GLO.STATE.TX.US]  
Sent: Thursday, August 23, 2007 12:06 PM  
To: Dan Wittliff  
Cc: Jody Henneke  
Subject: Coastal Zone Map and Rules

Dan:

Don't know what happened to the original, I didn't get a bounce notice. Attached is a link to our CMP map, the detailed view.

<http://www.glo.state.tx.us/coastal/jpegs/vert5x13cmp.jpg>

And a link to the goals and policies of the Texas Coastal Management Plan.

<http://www.glo.state.tx.us/coastal/cmpdoc/chap4.html>

Let me know if you have any questions about your project's association with the CMP. Again, from what information you have provided, I don't see one.

- Eddie

Eddie R. Fisher  
Director of Coastal Stewardship  
Coastal Resources Program Area  
Texas General Land Office  
1700 North Congress (physical address)  
P. O. Box 12873  
Austin, TX 78711-2873

(512) 463-9215 (Direct Line)  
(512) 475-0680 (Fax)  
(800) 998-4GLO (Toll Free)



TEXAS  
HISTORICAL  
COMMISSION

*The State Agency for Historic Preservation*

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

January 07, 2008

Rob Reid  
Vice President/Principal Project Director  
PBS&J  
6504 Bridge Point Parkway, Suite 200  
Austin, Texas 78730

Re: Project review under the Antiquities Code of Texas; East Texas Electric Cooperative, Inc.'s new 139kV line between newly proposed substation to existing Rich Substation, Polk County, Texas (PUC)

Dear Mr. Reid

Thank you for your correspondence describing the above referenced project. This letter presents the comments of the Executive Director of the Texas Historical Commission, the state agency responsible for administering the Antiquities Code of Texas.

The review staff, led by Debra L. Beene, has completed its review. The project area has a high probability for containing significant resources; several prehistoric sites have been recorded in the surveyed areas in the project area. We recommend that a professional archeologist survey the project area; the investigation should include pedestrian survey along with shovel testing and/or backhoe trenching depending upon the specific project impacts.

You can obtain lists of most professional archeologists in Texas on-line at [www.rpanet.org](http://www.rpanet.org) or <http://www.counciloftexasarcheologists.org>. Please note that other professional archeologists meeting the qualifying standards may be used; see these standards at [http://www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm). Please check the THC's web page for survey procedures at [www.thc.state.tx.us/rulesregs/rrstate.html](http://www.thc.state.tx.us/rulesregs/rrstate.html) and follow the CTA's report guidelines [http://www.thc.state.tx.us/rulesregs/CTA\\_guidelines.pdf](http://www.thc.state.tx.us/rulesregs/CTA_guidelines.pdf)

Thank you for your assistance in this state review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Debra L. Beene at 512/463-5865.**

Sincerely,

A handwritten signature in black ink, appearing to read "F. Lawrence Oaks", with a long, sweeping flourish extending to the right.

for  
F. Lawrence Oaks, State Historic Preservation Officer

FLO/dlb



TEXAS  
HISTORICAL  
COMMISSION

*The State Agency for Historic Preservation*

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

January 28, 2008

Kimberly D. Bose  
Secretary, FERC  
888 First Street NE, Room 1A  
Washington, DC 20002

Re: Project review under Section 106 of the National Historic Preservation Act of 1966, Pre-Application Document: East Texas Electric Cooperative, Inc.'s Lake Livingston Hydroelectric Project, Polk Counties, Texas (FERC)

Dear Ms. Bose:

Thank you for providing information describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Debra L. Beene, has completed its review. We have no objections to the use of the Alternative Licensing Process (ALP) for this project. It appears that the construction work proposed in the area near the dam will occur within previously disturbed areas. We do not recommend an archeological survey in this area. We require a more detailed map of the transmission line to determine the exact Area of Potential Effect (APE). The ALP document should include the construction dates for the dam and its associated structures. Please plot the Area of Potential Effect (APE) on USGS 7.5' topographic maps, including the Headrace Channel, its associated structures, penstocks, and powerhouse; Tailrace Channel; Switchyard; Access Roads and Transmission Line. These maps must remain at a scale that allows us to view the landform and the APE.

Thank you for your assistance in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Debra L. Beene at 512/463-5865.**

Sincerely,

A handwritten signature in cursive script, appearing to read "William A. Oaks".

for  
F. Lawrence Oaks, State Historic Preservation Officer

cc: Michael N. McCarty, Brickfield, Burchette, Ritts & Stone, P.C.  
FLO/dlb



Life's better outside.™

April 24, 2008

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San Antonio

Margaret Martin  
Boerne

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Lufkin

Lee M. Bass  
Chairman-Emeritus  
Fort Worth

---

Carter P. Smith  
Executive Director

Secretary Kimberly D. Bose  
Federal Energy Regulatory Commission  
888 First Street, N.E., Room 1A  
Washington, DC 20426

RE: FERC Project No. P-12632, Lake Livingston Hydroelectric Project

Dear Secretary Bose:

The Federal Energy Regulatory Commission (Commission) is seeking input on the scoping of the Lake Livingston Hydroelectric Project (FERC No. 12632). The East Texas Electric Cooperative (ETEC) has filed a notice of intent to submit an application for license to develop and operate a hydroelectric power facility at the existing Lake Livingston dam on the Trinity River. ETEC also filed a pre-application document (PAD) with the Commission.

The Texas Parks and Wildlife Department (TPWD) is the state agency charged with the primary responsibility for protecting the state's fish and wildlife resources and providing recommendations to local, state, and federal agencies that approve, permit, license, or construct developmental projects. The TPWD respectfully submits the following comments in the scoping process in support of preparation of the Commission's environmental assessment for the Lake Livingston Hydroelectric Project.

Under most reservoir release schedules, the proposed project will divert surface water through the hydroelectric facility and release water immediately downstream of the existing stilling basin in the Trinity River. The proposed project anticipates no changes in downstream hydrology since diversions for hydroelectric operations will be run-of-the-river. TPWD staff have identified the following fish and wildlife issues related to the proposed project.

- Temperature, dissolved oxygen, and other water quality changes in reservoir releases – The existing gated spillway releases water from the reservoir at an approximate depth of 30 feet. Under the proposed project, reservoir surface water will be released downstream. The change in the source of downstream water may affect temperature and

dissolved oxygen regimes especially during warm seasons and reservoir stratification. ETEC's project team proposes to use CE-QUAL-W2 to model potential changes in water quality. Although TPWD understands that the CE-QUAL-W2 model is capable of handling such analyses, we also understand it is very data intensive.

- Striped bass broodstock – The Trinity River downstream of Lake Livingston is TPWD's primary source for striped bass broodstock. Lake Livingston receives nearly one third of TPWD's annual hatchery production of striped bass fingerlings, some of which are assumed to pass through the dam and contribute to the population in the tailrace and Trinity River downstream. TPWD is concerned that the change in the source of downstream water may negatively influence fish passage. TPWD is currently conducting a 5-year study to determine survival, growth, and diet of striped bass stocked into Lake Livingston and the Trinity River below Livingston, evaluate the contribution of stocked fingerlings to the Lake Livingston tailrace fishery and broodstock, and quantify the extent of natural reproduction downstream of Lake Livingston Dam.
- Fish passage and the effects on food webs – It is assumed that a significant portion of the forage base for predatory fish (and other wildlife) downstream emanates from the passage of fish through the dam into the stilling basin and river downstream. There are concerns of how much adverse impact may occur due to impingement and entrainment of aquatic species at and through the proposed facility and the subsequent effects on the food web as well as how the change in the source of downstream water may influence fish passage.
- Effects on sport fisheries – Recreational interests such as boating and fishing at Lake Livingston and the Trinity River provide valuable cultural and economic resources to the region. Striped bass and blue catfish are important fisheries for those interests. TPWD is concerned that the source of downstream water may negatively affect these and other fisheries.
- Effects on downstream flow regimes – It is our understanding that the project would be operated in run-of-the-river mode. An operations plan specifying frequency, magnitude, and duration of releases should be developed, reviewed, and implemented as part of the permitting process.

Secretary Bose  
Page Three  
April 24, 2008

- Effects on streambed - Any removal or disturbance of sedimentary material from within the bed of a navigable waterway is subject to the jurisdiction of TPWD under chapter 86 of the Parks and Wildlife Code, and it is likely that a permit would be required.

It should be noted that ETEC's project consultants have been very cooperative and responsive to issues that TPWD staff have communicated. The biological sampling plans and the hydraulic and water quality modeling efforts by the project team appear to evaluate the concerns identified above. We are optimistic that the results of these studies will provide the information needed to assess what measures or conditions are necessary to avoid or mitigate adverse impacts to fish and wildlife resources.

Furthermore, TPWD has the responsibility to protect threatened and endangered or other sensitive species. In addition to the species identified in Table 3-3 of the PAD, a search of the Texas Natural Diversity Database (TXNDD) indicates possible occurrences of the following species within the proposed project area:

Natural Communities and Special Features

Colonial Waterbird Rookery

Lobolly Pine-White Oak-Southern Red Oak Series (*Pinus taeda-Quercus alba- Quercus falcate Series*)

The data from the TXNDD do not provide a definitive statement as to the presence, absence or condition of special species, natural communities, or other significant features within the project area. These data are not inclusive and cannot be used as presence/absence data. They represent species that could potentially be in the project area. This information must be supplemented with on-the-ground surveys.

Determining the actual presence of a species in a given area depends on many variables including daily and seasonal activity cycles, environmental activity cues, preferred habitat, transience and population density (both wildlife and human). If encountered during construction, measures should be taken to avoid impacting wildlife.

Secretary Bose  
Page Four  
April 24, 2008

TPWD requests that the Commission augment its list of comprehensive plans on file with the Commission with the following:

Texas Administrative Code. Natural Resources and Conservation. Title 31. Rule §57.157. Mussels and Clams. Austin, Texas. 2006. [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=31&pt=2&ch=57&rl=157](http://info.sos.state.tx.us/pls/pub/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=31&pt=2&ch=57&rl=157)

Texas Parks and Wildlife Department. 1999. Seagrass Conservation Plan for Texas. Austin, Texas. January 1999. 79 pp.

The following reference replaces the 1988 Texas Wetlands Plan:

Texas Parks and Wildlife Department. 1997. Texas Wetlands Conservation Plan. Austin, Texas. July 1997. 64 pp.

The following reference not only replaces the 1990 Texas Outdoor Recreation Plan but also specifically addresses conservation of land and water resources and recreation on land and water.

Texas Parks and Wildlife Department. 2005. Land and Water Resources Conservation and Recreation Plan. Austin, Texas. January 2005. 134 pp.

We will send these documents under separate cover. TPWD appreciates your consideration of these comments. If you have any questions or need additional information, please contact Mr. John Botros at 512-754-6844 x 58 or by email [john.botros@tpwd.state.tx.us](mailto:john.botros@tpwd.state.tx.us)

Sincerely,



Kevin Mayes  
River Assessment Team Leader

Texas Parks and Wildlife Department  
P.O. Box 1685  
San Marcos TX 78667-1685





# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Division of Ecological Services

17629 El Camino Real #211

Houston, Texas 77058-3051

281/286-8282 FAX 281/488-5882



April 24, 2008

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

Dear Secretary Bose:

Reference: ER 08/0223 - Notice of Scoping Meeting and Scoping Comments for an Applicant Prepared EA Using ALP; Lake Livingston Hydropower Project, FERC No. 12632-000

These comments are in response to the FERC request for scoping comments for the environmental assessment for proposed Lake Livingston Hydropower Project, FERC No. 12632-000. Our generic concerns are listed on page 91 of the pre-application document. These comments address impacts to the American eel (*Anguilla rostrata*), the American paddlefish (*Polydon spathula*) and water quality impacts to the Trinity River downstream of Lake Livingston dam.

### Fisheries

The American eel (*Anguilla rostrata*) is a species whose population has decreased to a fraction of its historical level. In parts of its range on the east coast the reduction has been in excess of 90%. American eels return to the Sargasso Sea to spawn and are considered members of one large and widespread population; genetic studies support this contention. Among the several factors that the Service has identified as contributing to population reduction are dams which block the upstream movement of young eels to historical foraging habitat throughout river systems (where they may stay as long as 30 years) and mortality of mature eels entrained in generating turbines when they move downstream on their spawning run.

The role of large mainstream dams has been recognized as a likely factor in the reduction of eels in Texas river systems, a reduction that has not been quantified. We request an evaluation of the current impact the dam has as a barrier to upstream movements of eels. We also request an evaluation of the various designs of "eel ladders" which would assist their movement over dams, and the evaluation and consideration of devices that would exclude eels and other fish from the turbines.

Secretary Kimberly D. Bose



Federal Energy Regulatory Commission

Page 2

The American paddlefish, a species native to the Trinity River, has been stocked in Lake Livingston by the Texas Parks and Wildlife Department as part of their efforts to increase populations of this rare species. Paddlefish have subsequently been reported in the Trinity below Lake Livingston Dam. Potential impacts to this species in the lake and the river below should be evaluated in the EA.

Water Quality

Water quality pre and post project should be monitored. Measures to address potential water quality problems should be addressed.

Recreation

Opportunities to increase recreational fishing and other activities below the dam should be addressed. Construction of a fishing pier/deck at a safe location below the dam, providing access for the handicapped and the general public, should be considered.

Thank you for the opportunity to provide comments.

Sincerely,

Stephen D. Parris  
Field Supervisor, Clear Lake ES Field Office

Document Content(s)

ER 080223 Lake Livingston Hrdropower Comments.DOC.....1-2

# THE UNIVERSAL ETHICIAN CHURCH

1401 19<sup>th</sup> Street, Huntsville Texas 77340 Phone 936-295-5767 Fax 936-294-0233

[www.sunsetservices.org](http://www.sunsetservices.org) [ghr@cyberclone.net](mailto:ghr@cyberclone.net)

18 April 2008

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426


Subject: Scoping comments and requests in regard to Project No. 12632-001

E. Texas Electric Cooperative (due NLT 25 April 2008)

Following are my comments on what we feel will be necessary in order to properly study and analyze the serious negative environmental consequences of this project and its associated and related interconnected projects:

1. Please incorporate into the record, the related grid project at Docket 29705 PUCT including all associated and related documents incorporated into the public record of that Docket.
2. Because it is apparent that this project is much, much, grander in scale than just a hydro-electric facility and short transmission line, we request that a full-blown ENVIRONMENTAL IMPACT STATEMENT (EIS) be mandated to include all potential related grid projects such as that in Docket 29705 as well as related interstate transmission facilities, already built, in the planning stage, or under construction.
3. All directly and indirectly related transmission and distribution lines should be undergrounded due to the serious negative impact to federally protected birds including those which are especially vulnerable, especially at the dam site and along FM 980, such as Bald Eagles, and White Pelicans as well as to reduce the serious potential health related issues associated with high doses of EMF radiation.
4. Please appoint a totally independent and objective group of scientists to analyze the EIS for errors and omissions. The EA in Docket 29705, for example, was chock-full of errors and omissions.
5. Please describe in full how collateral damage to fish and turtle populations will be mitigated -- especially in regard to Paddlefish and Alligator Snapping Turtles.
6. What measures will be taken to eliminate light pollution both at the dam and associated transmission lines and substations? Example of serious light pollution can be found at the new SHECO Staley Sub-station that directs high intensity lights across FM 980 and onto the Zwickey Creek Wildlife Sanctuary.

Thanks,

  
George H. Russell  
Bishop  
THE UNIVERSAL ETHICIAN CHURCH  
936-581-4302

RECEIVED  
OFFICE OF THE  
SECRETARY  
FEDERAL ENERGY COMMISSION  
2008 APR 24 P 2:40

Sunset Services are held each Saturday, one hour before sunset at The Holy Trinity Wilderness Cathedral \_ mile beyond the end of FM 135 on Lake Livingston in San Jacinto County, Texas or during inclement weather at The Chapel of the Nativity at the intersection of FM 980 and Waterwood Parkway.

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426  
April 25, 2008

OFFICE OF ENERGY PROJECTS

Project No.12632-001 – Texas  
Lake Livingston Hydroelectric Project  
East Texas Electric Cooperative, Inc.

Mr. Brian Lawson  
Project Manager  
GDS Associates, Inc.  
1850 Parkway Place, Suite 800  
Marietta, GA 30067

**Reference: Staff Comments on the PAD, Requests for Additional Information, and Study Requests for the Lake Livingston Hydroelectric Project No. 12632.**

Dear Mr. Lawson:

We have reviewed the East Texas Electric Cooperative, Inc.'s (the Cooperative) pre-application document (PAD) for the Lake Livingston Hydroelectric Project which was filed on December 21, 2007. We hereby submit our comments on the PAD as well as staff's requests for additional information. We concur with the Cooperative's proposed studies and do not have any additional study requests at this time.

We appreciate the opportunity to provide the enclosed comments and additional information requests (AIRs).

P-12632-001

Any questions on these comments and requests should be directed to Sarah Florentino at (202) 502-6863, or at [sarah.florentino@ferc.gov](mailto:sarah.florentino@ferc.gov).

Sincerely,

Mark Pawlowski, Chief  
Hydro East Branch 2

Attachment A: PAD Comments and AIRs

cc: Service List  
Public Files

## **Staff Comments on the PAD and Additional Information Requests**

### Project Description

In section 2.7 of the PAD, you describe your proposed mode of operation of the Lake Livingston Project. You state that ETEC plans to generate hydropower using releases from the reservoir pursuant to the Trinity River Authority's (TRA) existing operating protocols. Please provide a copy and a detailed description of the reservoir operating protocols which are described in "Livingston Dam and Reservoir Gate Operating Procedures" (URS Company, 1980).

### Aquatic Resources

In section 3.5.1 of the PAD, you describe the aquatic resources in the project area but you do not mention whether any essential fish habitat exists in the project area or within the area of project effects downstream from the Lake Livingston dam. Please identify any essential fish habitat that may occur in the reach downstream from the project and provide a list of species dependent upon this habitat as required by §5.6 (d)(3)(iv)(B).

### Rare, Threatened, and Endangered Species

In table 3-3 in the PAD, you provide a list of the state- and federally-listed rare, threatened, and endangered (RTE) species known to occur in Polk, San Jacinto, Trinity, and/or Walker Counties. Table 3-3 notes that two bat species, Rafineque's big-eared bat and Southeastern myotis, are known to roost in bottomland hardwoods, concrete culverts, and abandoned man-made structures. During the site visit on March 26, 2008, several open-air sheds were observed within the proposed project boundary and one abandoned building was observed in Southland Park directly downstream from the dam. Bats may use these sheds or the abandoned building for roosting. Please describe any known usage of these structures by bats.

### Recreation and Land Use

In section 3.7.1 of the PAD you discuss Southland Park on the eastern bank of the Trinity River immediately downstream from the Lake Livingston dam. You state that this park may be affected by construction of the proposed powerhouse and tailrace. During the site visit on March 26, 2008, ETEC representatives mentioned their amenability to consult with Polk County about providing tailrace access after project construction. Please provide any update on your consultation with the county regarding use of this site, and describe the feasibility of providing such access. If tailrace access is deemed feasible, please describe the recreation facilities that would be displaced and any

Attachment A, P-12632-001

proposed replacement facilities, show the existing facilities and any proposed replacement facilities on a map, and provide copies of any comment letters from the county on your proposals as well as your responses to those comments.



---

BRICKFIELD BURCHETTE  
RITTS & STONE, PC

---

March 13, 2009

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

ATTN: Sarah L. Florentino, OEP-DHL (PJ-14.2)

RE: Project No. 12632-001 – Lake Livingston Hydroelectric Project –  
Responses to Staff Comments on PAD and Additional Information  
Requests

Dear Secretary Bose:

The East Texas Electric Cooperative, Inc. (ETEC) hereby supplies its initial responses to the Commission Staff's Comments on the Cooperative's Pre-Application Document (PAD) and Additional Information Requests (AIRs). The Staff's comments and AIRs were contained in correspondence dated April 25, 2008, from Mark Pawlowski, Chief, Hydro East Branch 2, Division of Hydropower Licensing (DHL), to ETEC's Project Coordinator, Brian Lawson, of GDS Associates, Inc.

1. Project Description

**Request:** In section 2.7 of the PAD, you describe your proposed mode of operation of the Lake Livingston Project. You state that ETEC plans to generate hydropower using releases from the reservoir pursuant to the Trinity River Authority's (TRA) existing operating protocols. Please provide a copy and a detailed description of the reservoir operating protocols which are described in "Livingston Dam and Reservoir Gate Operating Procedures" (URS Company, 1980).

**Response:** An electronic copy of the referenced document, "Livingston Dam and Reservoir Gate Operating Procedures" (URS Company, 1980), is being submitted separately as a non-public file in .PDF format concurrently with this response. The Procedures, which are largely self-explanatory, are designed to ensure appropriate operator control over reservoir elevations and downstream releases. During normal operations, the gates are controlled with the objective of maintaining the reservoir elevation at  $\pm 131$  feet msl, with releases typically tracking inflow to the reservoir.

Please note that the operating protocols developed by URS relate to operation of the spillway tainter gates on Lake Livingston Dam. When the proposed hydroelectric facilities become operational, reservoir releases up to approximately 5,500 cubic feet per

second (cfs) that would otherwise be discharged through the spillway gates will instead be diverted through the power facilities. ETEC proposes to enter into a post-licensing Memorandum of Agreement (MOA) with TRA to define operating procedures that will (1) ensure appropriate coordination of power plant and spillway releases and (2) ensure that the timing and volume of flows in the Trinity River below the tailrace discharge will be consistent with flows that would otherwise occur in the absence of the power plant.

## 2. Aquatic Resources

**Request:** In section 3.5.1 of the PAD, you describe the aquatic resources in the project area but you do not mention whether any essential fish habitat exists in the project area or within the area of project effects downstream from the Lake Livingston dam. Please identify any essential fish habitat that may occur in the reach downstream from the project and provide a list of species dependent upon this habitat as required by §5.6 (d)(3)(iv)(B).

**Response:** There is no essential fish habitat (EFH) within the proposed Project boundary or in the area of Project impacts downstream of Lake Livingston Dam. NOAA Fisheries, in coordination with the Gulf of Mexico Fishery Management Council, has designated EFH in the Gulf of Mexico and its estuaries for Red Drum, Reef Fish, Coastal Migratory Pelagics, Shrimp, Stone Crab, Spiny Lobster and Coral. None of the EFH designations extends into the Trinity River above the estuarine area at the top of Trinity Bay, near Wallisville. The upper limit of the EFH designation is over 120 river miles below the Lake Livingston dam. Given the proposed Project's substantial distance from any EFH and the proposed run-of-river mode of operation, ETEC believes that the project will have no effect on EFH.

## 3. Rare, Threatened, and Endangered Species

**Request:** In table 3-3 in the PAD, you provide a list of the state- and federally-listed rare, threatened, and endangered (RTE) species known to occur in Polk, San Jacinto, Trinity, and/or Walker Counties. Table 3-3 notes that two bat species, Rafineque's big-eared bat and Southeastern myotis, are known to roost in bottomland hardwoods, concrete culverts, and abandoned man-made structures. During the site visit on March 26, 2008, several open-air sheds were observed within the proposed project boundary and one abandoned building was observed in Southland Park directly downstream from the dam. Bats may use these sheds or the abandoned building for roosting. Please describe any known usage of these structures by bats.

**Response:** Based on ETEC's inquiries and field investigations to date, there is no known usage of the referenced buildings by any bat species. It should initially be noted that the TRA maintenance buildings within the proposed project boundary are not in any way "abandoned" – they are actively used by TRA's Lake Livingston project staff for equipment and tool storage, as an equipment and vehicle repair shop, and as a welding shop, among other active uses. In a November 18, 2008 e-mail communication

from William Holder, Manager, Lake Livingston Project, TRA, to the undersigned counsel for ETEC, Mr. Holder stated that he had visited with TRA's maintenance department and they reported that they had not noticed any bats of any kind roosting or utilizing the open air maintenance buildings at the Project. This was confirmed in a subsequent conversation between the undersigned and Mark Waters, Assistant Project Manager for TRA, on March 10, 2009. Both Mr. Holder and Mr. Waters also said that TRA staff had no knowledge as to whether bats used the structures at the former Southland Park, which is now permanently closed.

Personnel from ETEC's environmental consultants, PBS&J, worked in the vicinity of the referenced structures during the spring, summer and fall of 2008 while conducting aquatic resources studies at Lake Livingston dam and in the Trinity River below the dam. PBS&J personnel did not see any bats, or evidence of bats, using the structures on those occasions, including the TRA-owned gazebo/observation platform adjacent to the former Southland Park.

In its draft Applicant-Prepared Environmental Assessment, ETEC has proposed as a protection, mitigation and enhancement measure that, if it is necessary to modify or remove existing service buildings or other structures during Project construction, ETEC's biologists will first conduct a field investigation to determine whether such structures are occupied by Rafineque's big-eared bats or Southeastern myotis. If either species of bat is encountered, the Cooperative will consult with the U.S. Fish and Wildlife Service and the Texas Parks and Wildlife Department prior to modification of the structure.

#### 4. Recreation and Land Use

**Request:** In section 3.7.1 of the PAD you discuss Southland Park on the eastern bank of the Trinity River immediately downstream from the Lake Livingston dam. You state that this park may be affected by construction of the proposed powerhouse and tailrace. During the site visit on March 26, 2008, ETEC representatives mentioned their amenability to consult with Polk County about providing tailrace access after project construction. Please provide any update on your consultation with the county regarding use of this site, and describe the feasibility of providing such access. If tailrace access is deemed feasible, please describe the recreation facilities that would be displaced and any proposed replacement facilities, show the existing facilities and any proposed replacement facilities on a map, and provide copies of any comment letters from the county on your proposals as well as your responses to those comments.

**Response:** Polk County formally closed Southland Park in spring 2008. The park had seen declining usage in recent years, largely because its facilities had been poorly maintained by the concessionaire that contracted with Polk County to run the park. The declining usage may also have been partially attributable to the fact that TRA, for safety and security reasons, had passed an ordinance in October 1992 (TRA Ordinance No. 09AAA) prohibiting public access to the Trinity River and its shoreline for a distance of 1000 feet downstream of the center line of the dam. This ordinance amended a

previously existing ordinance that had restricted access within 500 feet of the dam. Following the park's closure, a cyclone fence was erected and now blocks public access to much of the former park property. The public is still able to access the gazebo/observation tower via Recreational Road 5 (RR 5), but the public is restricted from accessing shoreline above the gazebo and any of the former parkland to the south and east of the gazebo. The gazebo structure was erected by TRA and sits on land owned by TRA that had been leased to Polk County as part of the Southland Park complex.

ETEC has had recent discussions with the Polk County Judge (the county's chief executive) concerning the county's plans for the former Southland Park property. In a February 19, 2009 meeting between Polk County Judge John Thompson and ETEC's Chief Financial Officer, Ryan Thomas, Judge Thompson indicated that the county has no immediate plans for the parcel. Judge Thompson said the county would be willing to allow ETEC to use the property as a staging area during construction of the hydropower facilities.

When asked whether the county would be willing to grant ETEC an easement over a portion of the property in the event that ETEC wished to (or was required to) provide public fishing access to the river below the power discharge, Judge Thompson said that the county would not be interested in granting such an easement, but would prefer to sell the entire 20-acre parcel. Judge Thompson also expressed a strong opinion that the river bank along the former park is ill-suited to the installation of a fishing platform or pier. He said that in the past, any time there was a decent rainfall in the area, the access to the river would be extremely boggy, muddy and generally useless for about a month due to poor soil conditions. To provide handicapped access from the park road down to the river would require a massive amount of excavation, stabilization and erosion control. Even with this, the first substantial flood event would likely wash away any type of pier or platform at that location. (TRA's Lake Livingston project staff and Southern Region management have expressed similar opinions.)

Appended to this correspondence as Figures 1 and 2, respectively, are photographs of the east bank of the Trinity River below the dam under current low-flow (1,000 cfs release) and flood conditions (approx. 90,000-100,000 cfs). The flood photo in Figure 2 was taken in May 1990, around the time the river reached a peak stage of 100,800 cfs, and depicts flooding on the shoreline almost to the edge of RR 5.

ETEC has not reached a final decision whether to propose tailwater fishing access as part of the proposed hydroelectric project. ETEC notes, however, that no agency or other participant has suggested that existing recreational access on or below the reservoir is inadequate, nor has anyone specifically requested installation of new facilities. Constructing new access facilities within the former Southland Park parcel may prove problematic for a number of reasons, including the difficulty of obtaining an easement or other property rights; the poor soil conditions along the east bank of the river; the probability that the existing restricted access area may have to be extended downstream for security purposes following installation of power facilities; concerns by Texas Parks

and Wildlife's Inland Fisheries division over potential interference with that agency's annual striped bass broodstock harvesting in the spillway tailwater; and objections to new recreational facilities by the concessionaire who operates a marina, convenience store, and two boat launching ramps on the river immediately below the Southland Park parcel.

# # # #

Please contact the undersigned counsel or Brian Lawson of GDS Associates if the staff requires further information in response to its inquiries.

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  
*Counsel to East Texas Electric  
Cooperative, Inc.*

cc: Service List, P-12632

**FIGURE 1.**



Lake Livingston Dam Tailrace area and east downstream shoreline under low-flow conditions (approx. 1,000 cfs). Photo taken 3/11/09.

**FIGURE 2.**



Lake Livingston Dam tailrace area and east downstream shoreline under flood conditions (approx. 90,000-100,000 cfs). Photo taken May 1990.



DEPARTMENT OF THE ARMY  
GALVESTON DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 1229  
GALVESTON TX 77553-1229

August 27, 2008

REPLY TO  
ATTENTION OF:

Evaluation Section

SUBJECT: Permit Application SWG-2007-01884

Edd Hargett  
East Texas Electric Cooperative, Inc.  
2905 Westward Drive  
Nacogdoches, TX 75963

Dear Mr. Hargett:

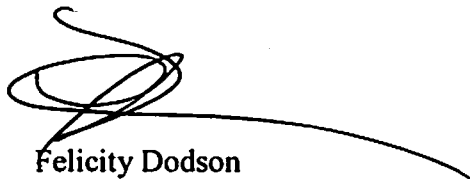
This is in reference to your letter dated October 24, 2007, requesting our concurrence with your agency's decision to use the Alternative Licensing Program (ALP) to obtain a license from the Federal Energy Regulatory Commission to construct a hydroelectric power project in Lake Livingston, in Polk County, Texas.

We do not have any objection to the use of the ALP. In addition, we have reviewed your project and have concluded that it would be subject to our jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. As such, a Department of the Army permit would be required. A permit application is available on the internet at the following address: <http://www.swg.usace.army.mil/reg/permitapp/app.asp> From this site choose either Engineering form 4345a (to fill out on the screen and print) or Engineering 4345 (to print and fill out manually). Send the application to:

Bruce Bennett  
Leader, North Evaluation Unit  
Regulatory Branch  
USACE – Galveston District  
P.O. Box 1229  
Galveston, TX 77553-1229

Please include a description of the project and corresponding plans (both plan view and cross section). Make sure you identify the quantity of fill material (if any) being placed into jurisdictional areas and the water depth at ordinary high water. We are ready to assist you in whatever way possible. We can arrange a meeting to discuss the requested information if that is your desire. If you have any questions please call me at 409-766-3105.

Sincerely,



Felicity Dodson  
Project Manager

SEP 02 2008



From: Christopher Loft [mailto:CLOFT@tceq.state.tx.us]  
Sent: Fri 12/12/2008 10:18 AM  
To: Dan Wittliff  
Subject: Lake Livingston

Dan:  
Just following up on our December 8 meeting at TCEQ. ETEC had asked whether they would need to get a water rights permit. I checked with our legal staff and her interpretation is that ETEC would not need to get a permit to run the hydro facility. Let me know if you have any questions.

Chris Loft  
Team Leader Resource Protection Team  
Water Rights Permitting & Availability Section  
Water Supply Division  
TCEQ

From: Gregg Easley [mailto:GEasley@tceq.state.tx.us]  
Sent: Wed 1/14/2009 3:14 PM  
To: Dan Wittliff  
Subject: Lake Livingston FERC project follow-up  
Dan,

Needed to get back to you about the two action items that I had coming out of our Dec. 8th meeting here at TCEQ. Sorry it took awhile to reply. Please pass this information on to the appropriate project folks.

First, I checked with one of our water quality modelers about what type of scenarios we'd like to see modeled. The critical low-flow condition (low flow, high temperature) is what we're mostly interested in. As for low-flow thresholds to consider for the Trinity River, our primary target is the 7Q2 flow (7 day, 2 year low-flow). Water quality standards, such as dissolved oxygen (DO) and temperature criteria, don't apply below 7Q2 flow. So, for the upper end of the Trinity River Below Lake Livingston, the 7Q2 value calculated from flow data from USGS gage 08066250 (@ US 59) is 718 cfs. As for high temperature conditions, I believe the default temperature used by our modelers is 30.5 C. Of course, higher ambient temperatures should be looked at if they've occurred in the past.

I'm sure that your modeler(s) is already aware of this, but I wanted to make sure that y'all know the applicable DO and temp criteria for Lake Livingston and the river downstream of the lake. The DO criteria for both are 5 mg/L (24-hour mean) and 3 mg/L (minimum). There are different criteria in the spring (first half of the year when temps are between 63 and 73 F) to protect fish spawning: 5.5 mg/L (24-hour mean) and 4.5 mg/L (minimum). A temperature criterion of 93 F, which is applied as a maximum, has been assigned to both water bodies.

The second action item had to do with a determination on my part of whether any additional studies are needed. I have not identified any additional studies that need to take place.

Let me know if you have any questions or need additional information.

Thank you,

Gregg Easley  
Aquatic Scientist  
Texas Commission On Environmental Quality  
Water Quality Standards Implementation Team  
P. O. Box 13087, MC-150  
Austin, TX 78711-3087

512-239-4539 (phone)  
512-239-4420 (fax)  
geasley@tceq.state.tx.us (e-mail)



*An employee-owned company*

January 28, 2009

F. Lawrence Oaks, State Historic Preservation Officer  
ATTN: Debra K. Beene  
Texas Historical Commission  
P.O. Box 12276  
Austin, Texas 78711-2276

Re: Proposed East Texas Electric Cooperative, Inc. Lake Livingston Hydroelectric  
Project and 138kV Transmission Line, Polk County, Texas –  
FERC Project No. 12632

Dear Ms. Beene:

Attached please find a portion of the Blanchard, Livingston, Camilla, and Goodrich USGS 7.5-minute quadrangles depicting the location of the preferred location of the above referenced project. The width of the required easement for this 2.8-mile long transmission line project will be 100 feet.

This information is being provided in response to Texas Historical Commission (THC) correspondence to Rob Reid of PBS&J dated January 7, 2008 and a THC letter to the Federal Energy Regulatory Commission (FERC) dated January 28, 2008.

This project requires a federal license and as FERC is the lead federal agency it is anticipated that a Historic Properties Management Plan (HPMP) meeting the January 11, 2001 Guidelines for the Development of Historic Properties Management Plans for FERC Hydroelectric Projects will be required, and will be included as a license condition. East Texas Electric Cooperative, Inc. (ETEC) has been designated as FERC's non-federal representative for the purpose of conducting informal consultation under Section 106 of the National Historic Preservation Act, and PBS&J is acting as ETEC's agent.

As THC has previously acknowledged, the lands on which the hydroelectric power plant and related structures will be situated are previously disturbed areas, and accordingly, no archeological survey is necessary prior to construction of the power generation facilities. Any potential impacts on historic properties would be limited to the proposed transmission line. It is anticipated that the HPMP will be fairly simple and will provide for any required cultural resource survey, any possible site evaluation for National Historic Places eligibility and any avoidance or mitigation measures.

F. Lawrence Oaks, State Historic Preservation Officer  
ATTN: Debra K. Beene  
January 28, 2009  
Page 2

ETEC would appreciate your comments regarding requirements for the archeological survey, tribal coordination and any further required investigations. Your comments will be considered in the development of the proposed HPMP, which ETEC intends to submit with its FERC license application on or before March 31, 2009.

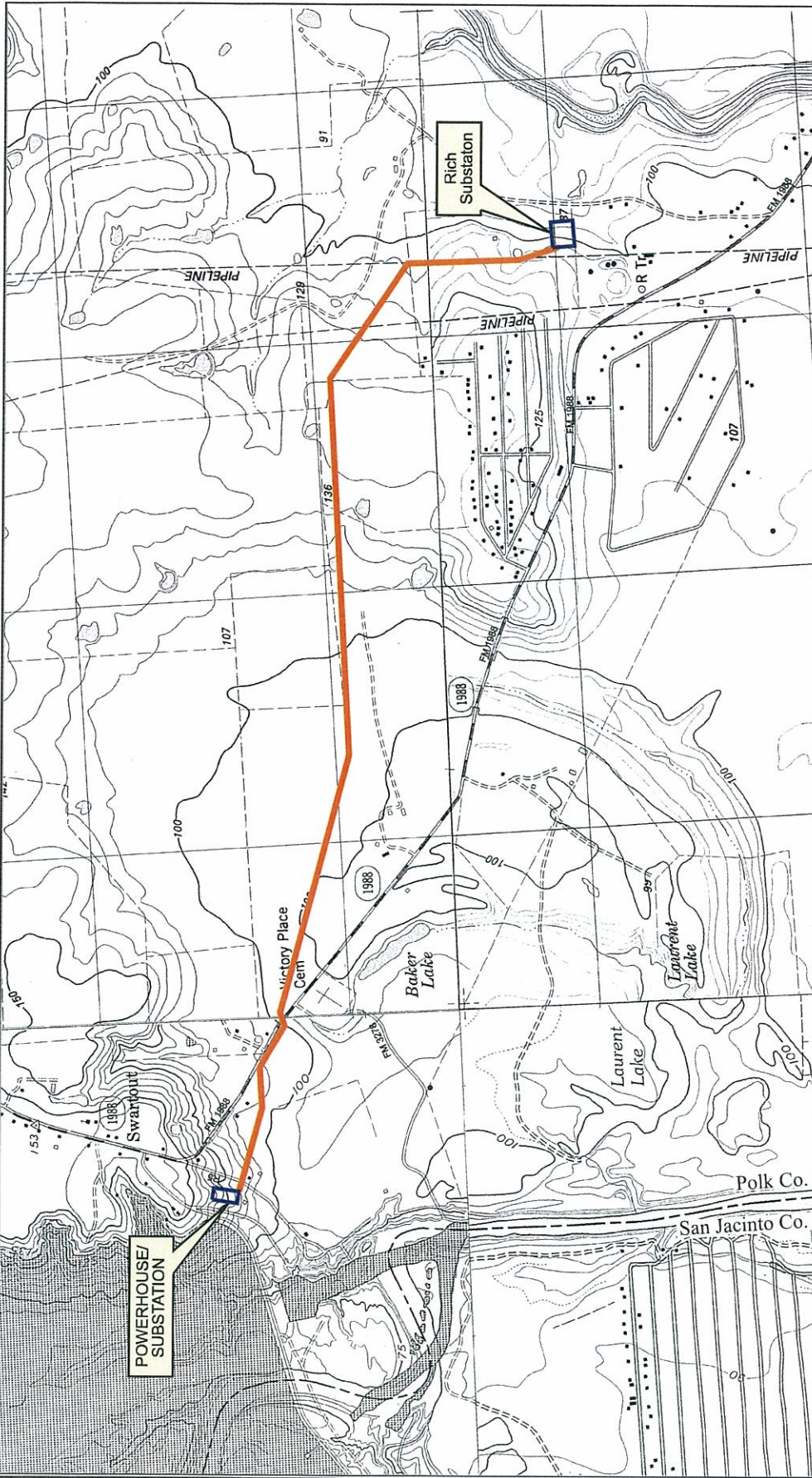
Sincerely,



Rob Reid  
Vice President/Principal Project Director

Attachment

Cc: Mr. Clell Bond – PBS&J  
Mr. Michael McCarty – Brickfield, Burchette, Ritts & Stone, P.C.



**PBSJ** • Engineering  
• Environmental Consulting  
• Surveying

**ETEC'S PREFERRED ROUTE  
LAKE LIVINGSTON-RICH  
138-KV TRANSMISSION LINE PROJECT**

 Preferred Route



Base Map: USGS 7.5' Quadrangls; Blanchard, Camilla, Goodrich and Livingston, Texas

From: Christopher Loft [mailto:CLOFT@tceq.state.tx.us]  
Sent: Wednesday, February 25, 2009 8:58 AM  
To: Dan Wittliff  
Subject: Re: Fwd: Lake Livingston Hydro Project  
Dan:

Hopefully copies of the applications or signed amendments will be adequate for FERC.

Chris

>>> Kellye Rila 2/24/2009 3:22 PM >>>

We can send them copies of the applications and if they have been issued by the time they need

it, we can send them a signed copy of the amendment

>>> Christopher Loft 2/24/2009 3:18 PM >>>

Kellye:

FYI. We may need to provide a letter from our office to FERC.

Chris

>>> "Dan Wittliff" <Dan.Wittliff@gdsassociates.com> 2/24/2009 2:57 PM >>>

Gregg,

When you leave your current position, who will take up the 401 certification? What substantive information would be needed for the application. I am hoping that our EA for the FERC licensing will largely cover the documentation needed, but other information may also be required. Thank you.

Dan

Chris,

With Gregg's move to your office, will you still be the contact on water rights permits? When we submit our final EA to FERC on March 31, we will need a written sign-off from your office (confirming that if the City of Houston and TRA have submitted the requisite water rights permit amendments needed to add hydro as an additional authorized use and that ETEC will not need to do anything additional about obtaining water rights for the project. You may have sent me an email on this some time ago, but we understand FERC may want something more formal. Thank you.

Dan

GDS  
Associates,  
Inc.  
Engineers and  
Consultants  
DAN WITTLIFF, P.E., DEE, F. NSPE  
Managing Director - Environmental Services

919 Congress Avenue, Suite 800  
Austin, TX 78701  
phone 512.494.0369  
fax 512.494.0205  
cell 512.680.3506  
Dan.Wittliff@gdsassociates.com



TEXAS  
HISTORICAL  
COMMISSION

*The State Agency for Historic Preservation*

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

March 04, 2009

Rob Reid  
Vice President/Principal Project Director  
PBS&J  
6504 Bridge Point Parkway, Suite 200  
Austin, Texas 78730

Re: Project review under Section 106 of the National Historic Preservation Act of 1966 and the Antiquities Code of Texas; East Texas Electric Cooperative, Inc.'s new 139kV line between newly proposed powerhouse substation and the existing Rich Substation, Polk County, Texas (PUC, FERC)

Dear Mr. Reid

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed federal undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission. As the state agency responsible for administering the Antiquities Code of Texas, these comments also provide recommendations on compliance with state antiquities laws and regulations.

The review staff, led by Debra L. Beene, has completed its review. As stated in our January 07, 2008 letter, the project area has a high probability for containing significant resources; several prehistoric sites have been recorded within the project area. We understand that the investigation is forthcoming and the professional archeological survey will meet or exceed the minimum survey standards for Texas; these can be found at the THC's web page for survey procedures at: <http://www.thc.state.tx.us/rulesregs/RulesRegsword/surveystandards02.doc>.

Thank you for your assistance in this state review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Debra L. Beene at 512/463-5865.**

Sincerely,

A handwritten signature in cursive script, appearing to read "William A. Stolt".

for  
F. Lawrence Oaks, State Historic Preservation Officer

FLO/dlb

-----Original Message-----

From: Christopher Loft <CLOFT@tceq.state.tx.us>  
To: Dan Wittliff  
CC: Alan Batcheller <ABATCHEL@tceq.state.tx.us>  
Sent: Mon Mar 16 12:55:14 2009  
Subject: Lake Livingston

Dan:

We appreciate the opportunity to review the draft Environmental Assessment (EA) and look forward to continue working with the project team throughout the FERC licensing process. Water rights staff have the following comments on the EA:

1. Environmental measures Section 2.2.4

The cooperative has proposed numerous mitigation measures however, has not provided any details. The TCEQ would like to work in consultation with the Cooperative and other appropriate agencies in developing the Dissolved Oxygen and Temperature plan, the study to determine the level of flows necessary to protect aquatic life in the stilling basin and the striped bass monitoring program.

2. The cooperative states that the threadfin shad population were highest during the summer when flows were lowest (Page 69). However, on page 70 the cooperative states that threadfin shad were abundant in the river during all seasons except summer when discharge from the reservoir was lowest. Please clarify this discrepancy.

3. TCEQ water quality modeling staff have not reviewed the model runs performed by the cooperative. However, the model runs shown in Appendix E indicate a minimum spillway gate release of 200 cfs while the EA document mentions a minimum flow release of between 50 and 200 cfs. Modeling runs will need to be performed throughout the range of 50 cfs to 200 cfs.

Thanks

Chris Loft

Water Rights Permitting & Availability Section  
TCEQ



-----Original Message-----

From: Kevin Mayes [mailto:Kevin.Mayes@tpwd.state.tx.us]  
Sent: Tuesday, March 17, 2009 5:48 PM  
To: Dan Wittliff; Gregg Easley; Christopher Loft; Batcheller, Alan;  
Edith\_Erfling@fws.gov  
Cc: Michael McCarty; Brian Lawson; Melissa Dubinsky; Labay, Andrew A; Buzan,  
David L; Kevin Mayes; John Botros  
Subject: RE: Agency Comments on Preliminary Draft Environmental Assessment for  
Lake Livingston Hydro Project

Dear Mr. Wittliff,

Texas Parks and Wildlife Department (TPWD) staff appreciates this opportunity to provide comments on the draft Applicant-prepared Environmental Assessment (APEA) for the Lake Livingston Hydroelectric Project, Federal Energy Regulatory Commission (FERC) Project No. 12632. It is staff understanding that our comments at this time are to provide initial input into the development of the APEA prior to filing of the license application with FERC. TPWD reserves the right to provide additional comments and recommended conditions in this regard upon further review and development of the Environmental Assessment.

TPWD staff has focused our review to specific sections of the draft APEA at this time and respectfully submits the following comments.

#### Aquatic Resources

Based on the water quality modeling results presented in the draft APEA, water releases through the hydroelectric facility can be up to 1° C warmer from May to September. This temperature increase could cause increased stress on striped bass in the Trinity River downstream of the dam where summer temperatures are already at or near thermal maxima for adult striped bass (31° C). The effect of this temperature increase could be mitigated somewhat by an existing artesian well. However, it is our understanding that the applicant proposes to release only 50-200 cfs through the existing gates to maintain adequate temperature and DO conditions in the stilling basin and in the river immediately below. This range of flows will most likely not support sufficient habitat in the area or access to the area surrounding the artesian well. Figure 2-2 in the Biological Characterization (Attachment B) shows the potential for this area to become isolated at lower flows. If striped bass become isolated in this area as they seek cooler temperatures, then food resources could also be depleted. Since this area is an important thermal refuge for striped bass during warmer months it is critical that sufficient flows be maintained to allow striped bass and forage fish access into and out of this area. Further, it is our understanding that under most or normal conditions at least 1000 cfs is currently being released through the gates. Staff is very concerned that flows in the range of 50-200 cfs would be entirely inadequate to support instream habitat in the river channel downstream of the weir to the hydropower tailrace and connectivity to critical thermal refugia. Without spatially-explicit hydraulic habitat modeling or well designed empirical assessment of test flows, it is difficult to ascertain what flows would be necessary to support habitat and connectivity. It appears that flows around 1000 cfs do support the habitat needs of the downstream (weir to tailrace) fish community and provide access to the existing temperature refugia.

With regard to fish passage from the reservoir to the Trinity River downstream, reduced releases through the existing gates will allow for some fish passage but probably not at the same level as currently occurs. Additional fish passage is possible through "fish friendly" turbines with a survival rate greater than 70%. When reservoir releases exceed the capacity of the turbines, excess flow, such as during spring high flow events, will be routed through the existing gates allowing for additional fish passage. In

combination, the proposed operations should allow adequate opportunity for downstream movement of fishes, including striped bass, from the reservoir to the Trinity River for most seasons of the year. However, food supply (e.g., threadfin shad) in summer months currently appears to be limited given reduced releases from the reservoir (page 70 APEA). Further reductions in flow through the existing gates may make already limited food sources inadequate. Although the draft APEA addresses potential changes in entrainment and passage through turbines, it does not address the linkage between the effects of such changes and fish health downstream. It seems imperative to address that linkage especially for warmer months.

Given the known problems with measured Lake Livingston dissolved oxygen levels, the use of supplemental aeration as needed in the turbines seems to be prudent and warranted. Since long distances are required for dissolved oxygen to recover to existing (without Project) levels, it seems imperative to ensure that water quality standards for dissolved oxygen are met at the hydropower tailrace discharge at all times. Otherwise, there could be long distances of low dissolved oxygen levels which could inhibit fish passage or survival.

The draft APEA indicates that the temperature of water released through the tailrace will be higher than existing conditions (without Project) and in certain scenarios can approach the water quality standard and as stated above meet or exceed thermal maxima for adult striped bass. Given the uncertainties associated with any modeling effort, the history of water quality problems in the Trinity and Lake Livingston, occasional fish kills in the stilling basin, and the importance of the downstream fisheries, the Project plan should explicitly include operational and design features that can reduce temperatures, provide refugia and maintain access to refugia, and maintain dissolved oxygen in addition to a well-designed monitoring plan rather than allusions about monitoring and operational flexibility that are currently in the draft APEA.

#### Terrestrial Resources

After review of the draft APEA regarding the proposed transmission line, TPWD's preferred alternative is Route 3, which minimizes impacts to upland woodland, bottomland/riparian vegetation and wetlands. If Route 3 can not be utilized, TPWD would prefer that Routes 4 or 5 be utilized as the preferred alternative since alternative Routes 1 and 2 would both result in the most deleterious and substantial impacts to upland woodlands, bottomland/riparian and wetlands.

DRAFT Recommendations for an Environmental Operating Plan: Comments provided herein may be considered as draft conditions for fish and wildlife protection under Section 10(j) of Federal Power Act (Section 5.4.1 of the APEA).

1. Outline conditions for reservoir gate releases and hydropower releases.
2. Implement a fish monitoring plan. One objective would be to document passage and survival of fishery resources in the stilling basin, tailrace, and Trinity River downstream of Lake Livingston. If fish passage is not sufficient (e.g., reduced striped bass condition) then operational adjustments may need to be made. Another objective is to monitor habitat availability and use between the weir and the hydropower tailrace. Appropriate responses can be taken to mitigate habitat availability issues.
3. Implement a water quality monitoring plan to document real-time temperature and dissolved oxygen conditions. A plan could include the installation, use of, and maintenance of water quality probes in the tailrace, downstream of the tailrace, in the stilling basin, downstream of the stilling basin and downstream in the Trinity River.
4. Develop a notification and response plan that would be implemented if certain criteria (e.g., habitat, fish condition, water quality) be met or exceeded. A response plan would need to carefully describe criteria and an

appropriate operational or other response to mitigate impacts; notification would also be integral to the plan. An operational response could include oxygen injections, increased flow through the existing gates, or other options. Annual reports would be required to summarize data collected and responses taken.

We appreciate your consideration of these comments. If you have any questions or need additional information, please contact Mr. John Botros or myself at 512-754-6844.

Sincerely,

Kevin Mayes

Kevin Mayes  
Aquatic Biologist  
Texas Parks and Wildlife Department  
River Studies, Inland Fisheries  
POB 1685  
San Marcos, TX 78667

512-754-6844 X225

-----Original Message-----

From: Dan Wittliff [mailto:Dan.Wittliff@gdsassociates.com]  
Sent: Mon 3/9/2009 9:25 AM  
To: Gregg Easley; Christopher Loft; Batcheller, Alan; Kevin Mayes; Edith\_Erfling@fws.gov  
Cc: Michael McCarty; Brian Lawson; Melissa Dubinsky; Labay, Andrew A; Buzan, David L  
Subject: Agency Comments on Preliminary Draft Environmental Assessment for Lake Livingston Hydro Project

Colleagues,

To address appropriately USFWS, TPWD, and TCEQ issues in the submittal of our final EA draft when we submit this assessment to FERC on March 31, we sent you advance copies of the preliminary draft EA on February 16.

Based on our follow-up calls, we understand that several of you plan to submit your comments and issues to us by March 16 so we can revise the final draft EA to incorporate and address those concerns as much as is practicable.

We certainly appreciate this effort on your part and stand ready to answer any questions or provide further information that you may have or need as you prepare your comments. Thank you for your diligence on this important project.

Dan

<<http://www.gdsassociates.com/>>

GDS Associates, Inc.  
Engineers and Consultants DAN WITTLIFF, P. E., DEE, F. NSPE  
Managing Director - Environmental Services

919 Congress Avenue, Suite 800  
Austin, TX 78701  
phone 512.494.0369  
fax 512.494.0205  
cell 512.680.3506  
Dan.Wittliff@gdsassociates.com

## **APPENDIX A**

# **LICENSE CONDITIONS RECOMMENDED BY STAFF**

## **APPENDIX B**

# **RESPONSE TO COMMENTS ON THE DRAFT ENVIRONMENTAL ASSESSMENT**