

## **COMMENTS FROM WILLIAM J. COPELAND PE Member Neely Henry Lake Association Regarding Water Management Issues:**

### **1. Comment number one regarding Neely Henry Lake Water Level issue:**

I respectfully request that FERC reconsider and agree to the current lake levels on Neely Henry that have been in effect from 2001 to 2012 (507 in winter and 508 in summer) and make those lake levels permanent when the new operating license is issued to Alabama Power Company. This request is in keeping with the request by Alabama Power in their letter dated Oct 1, 2010. In addition as a member of the relicensing team which met for several years I fully support all actions recommended by Alabama Power in their Oct 1, 2010 letter to FERC Re: **Final Environmental Assessment for Coosa River Project (FERC No. 2146-111)**

For your quick use I have copied portions of the Alabama Power letter to FERC dated Oct 1, 2010 that relates to Neely Henry Lake level issues. See below:

"On December 31, 2009, the Federal Energy Regulatory Commission (FERC) Released a Final Environmental Assessment (Final EA) for Alabama Power Company's Coosa River Project relicenses application. Though we are encouraged that the Final EA adopts many of the proposals contained in our application, there are several recommendations in the Final EA that FERC should clarify modify or reject when it issues the new license for the Coosa Project.

#### **Recommendation for Neely Henry Operations**

Alabama Power's relicense application includes a proposal to continue operating Neely Henry Dam during the new license term in a manner consistent with a three year variance granted by FERC in an order dated February 26, 2001, (94 FERC ¶ 62,171), which was extended in an order dated March 18, 2004. (106 FERC ¶ 62,209) Through these orders, FERC has authorized Alabama Power since 2001 to maintain the reservoir elevation at 507 feet above mean sea level (msl) between November 5 and April 15, which is two feet above the elevation specified in Article 50 of the project license. Because Alabama Power's operations at Neely Henry are governed in large part by a Corps of Engineers reservoir regulation manual, the Corps participated as a cooperating agency with FERC in the preparation of an environmental assessment of the proposed change in operations. The Final Environmental Assessment, which was jointly issued by FERC and the Corps on February 26, 2001, states: "This EA is intended to satisfy our joint NEPA responsibilities for the proposed Interim Flood Control Plan and any later application by APC to make the Interim Flood Control Plan permanent." (Emphasis added.) The March 18, 2004 order authorized Alabama Power to operate Neely Henry with the higher winter pool levels on an interim basis "until the Commission issues a decision on APC's application for a new license." As a result, since 2001, Alabama Power has operated Neely Henry Dam in accordance with the rule curve variances, and as noted in footnote 17 of the Coosa Final EA, "This operational mode is treated as the existing condition."

Based on FERC's 2004 order approving the variance and contemporaneous communications with both FERC and Corps staff, Alabama Power has understood since 2004 that the interim operations at Neely Henry would be made permanent as a mere formality when the new Coosa license is issued. Indeed, the first environmental assessment for the Coosa relicense application, which was issued on April 6, 2009, confirmed this

Alternative: "Formalize the reservoir rule curve at Neely Henry which has been implemented on a trial basis since 2001. This includes maintaining the Neely Henry reservoir at normal full pool at elevation 508 feet msl and raising the winter pool elevation from 505 feet msl to 507 feet msl, with daily fluctuations up to 1 foot." (Italics in original.) Inexplicably, Section 2.3 of the Final EA reverses the first environmental assessment's Staff Alternative on this issue, recommending instead that Alabama Power do the following: "Operate the Neely Henry development under the pre-variance rule curve and pool elevations. This includes maintaining the Neely Henry reservoir at normal full pool elevation 508 feet msl and the winter pool elevation at 505 feet msl, with daily fluctuations up to 1 foot." There is no reason given for this reversal of the first Staff Alternative, and there is no explanation offered of how this recommendation is (or is not) consistent with FERC's orders and 2001 environmental assessment concerning Neely Henry winter pool operations. Given the acknowledgement in footnote 17 in the Final EA that the interim operational mode "is treated as the existing condition," it is surprising that there is essentially no analysis of the environmental, recreational or other impacts of the recommendation that Alabama Power revert to the pre-variance mode of operations at Neely Henry.<sup>3</sup>

It appears that the Neely Henry rule curve issue has been blended with Alabama Power's proposal to modify the Weiss and Logan Martin rule curves. (See Final EA at pages 75-76.) Based on concerns expressed by the Corps described in the Final EA, action on the Weiss and Logan Martin rule curve changes will be deferred indefinitely until some unknown point in the future when the Corps completes additional review and other regulatory processes. Alabama Power is disappointed that the Corps could not fully review the Weiss and Logan Martin rule curve changes in time for these changes to be approved and included in the new Coosa license. At this point, it is unclear whether that review will be consolidated with the ACT Master Manual update or whether it will be conducted separately after the manual update is completed. If, as recommended in the Final EA, implementation of the Neely Henry rule curve change is carved out of the Coosa relicensing process and coupled with the Corps' consideration of the Weiss and Logan Martin rule curve changes, continued operations in accordance with the "existing condition" at Neely Henry appears destined for extended interruption. This treatment of the Neely Henry rule curve issue in the Final EA is a significant and disappointing change from how FERC has indicated that it would handle winter pool operations at Neely Henry.

Alabama Power therefore requests that FERC reject the Final EA's recommendation concerning the return to pre-variance operations at Neely Henry and that FERC adopt in the new Coosa River license the Neely Henry staff alternative contained in the first Coosa environmental assessment. Based on recent discussions with the Corps, Alabama Power believes the Corps concurs that existing Neely Henry operations are appropriate and should be continued, uninterrupted, until it completes the ACT Master Manual update process. Without this change, Alabama Power will be forced to return to pre-variance operations for an indeterminate period while the Corps, as part of the Manual update, considers making the existing operations permanent. If the Corps ultimately adopts a permanent change in Neely Henry operations, FERC will need to amend the new Coosa license to incorporate the rule curve modification, which would be the third regulatory process conducted by FERC to evaluate and consider the Neely Henry rule curve change. The return to pre-variance operations with the prospect of a future license amendment proceeding would not be necessary if FERC allows Alabama Power to continue to operate Neely Henry during the new license term in accordance with the existing variance and return to pre-variance operations only if Corps' ACT Master Manual update process results in a

- 2. Comment number two regarding support for a comprehensive water management policy.**

We must start immediately developing this plan because our neighbor states already have a plan and that in its self is the first strike against Alabama when we go to court to try and save our fair share of water flowing into our state. We should have had a plan 20 years ago but let us waste no time in getting one established as soon as possible today. Per Alabama Water Resources Study Commission Executive Study; Water for a Quality of Life Oct 10. 1990 at 1-3 {2} 1d

“Alabamians get their water from many sources. Of the 18 watersheds in Alabama, only two (the Black Warrior River and the Cahaba River) flow completely within Alabama.” This means that some politically appointed federal judge could say Alabama does not even have a water management plan so they have no grounds to be heard and award everything to the states with a plan. Our elected officials knew about this problem many years ago but have chose to do nothing. They have created several underfunded agencies with no agency having the clear authority or funding to tackle the problem. To name just a few of the agencies: The Alabama Office of Water Resources. The Alabama Department of Environmental Management. The Alabama Surface Mining Commission. The Department of Industrial Relations. The Alabama Department of Conservation and Natural Resources, The Alabama Department of Public Health and the Geological Survey of Alabama. The power and authority and funding needs to be placed in one state agency and we need to get this plan done quickly.
- 3. Comment number three the global water crisis:** Reference Microcap Market Place document summer 2012 “Millions are currently dying from lack of access to fresh water each year and it will only get worse as the global population grows. Anyone who has seen a globe knows how much water there is covering the planet. But what most people fail to realize is that less than one percent of all water on Earth is useable freshwater. This tiny percentage is needed to sustain the seven billion humans and millions of other species that co-habit the planet.”

With ever expanding populations and global warming changing our climate reducing normal rain falls we will need more fresh water to allow our crops to be irrigated and produce corn, and other essential foods. We in Alabama must develop plans to irrigate our crops or we will probably lose out to the dry years that seem to be more frequent and may only get worse as time goes on per most knowledgeable people. In Alabama we have a lot of water flowing thru and we must develop plans to use and conserve that water. New plans should include building more dams to hold the fresh water that flows into our state and reduce the amount going back into the ocean. In the future having an abundance of fresh water for industrial use will create jobs and allow for many recreational uses such as fishing and boating plus irrigation for crops and pastures for cattle. In the future fresh water could be as valuable as oil or gold.
- 4. Comment number four: I am willing to assist in any way to obtain a state wide water management plan: My qualifications are:**
  - a. Professional Engineer Alabama (Civil)
  - b. Retired Colonel USAF
  - c. 35 years experience in design, environmental issues, project development, etc
  - d. Had training in dealing with media TV and Newspaper on controversial issues.
  - e. Experience in dealing with ADEM
  - f. Experienced Master Planner
  - g. Worked with Ala Power Co on Relicense Committee for five years.