

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426
January 21, 2009

OFFICE OF ENERGY PROJECTS

Project No. 2305-020-TX/LA
Toledo Bend Hydroelectric Project
Sabine River Authority of Texas and
Sabine River Authority, State of
Louisiana

Melvin T. Swoboda, Licensing Manager
Toledo Bend Project Joint Operation
P.O. Box 579
Orange, TX 77631-0579

**Reference: Request for Modification of Studies, Additional Information, and
Study Requests**

Dear Mr. Swoboda:

After reviewing the Pre-Application Document (PAD) for the Toledo Bend Hydroelectric Project, staff has determined that a study on terrestrial special-status species is needed and recommends modifications to two proposed study plans. Staff has also determined that additional information is needed. The requests for study modifications, additional information, and studies are discussed in the enclosed Schedule A. The additional information should be included with your proposed study plan, which needs to be filed on or before March 6, 2009.

Please include in your proposed study plan a master schedule that includes the estimated start and completion date of all field studies, when progress reports will be filed, who will receive the reports and in what format, and the filing date of the initial study report. All studies, including field work, should be initiated and completed during the first study season, and the study reports should be filed as a complete package to avoid piecemeal review. Finally, if you are likely to propose any plans for measures to mitigate project impacts, drafts of those plans should be filed with the initial study report.

- 2 -

If you have any questions, please contact Alan Mitchnick at (202) 502-6074; e-mail at alan.mitchnick@ferc.gov; or Lesley Kordella at (202) 502-6406; e-mail lesley.kordella@ferc.gov.

Sincerely,

Ann F. Miles, Director
Division of Hydropower Licensing

Enclosure: Schedule A

cc: Mailing List, Public Files

Schedule A
Project No. 2305-020

MODIFICATIONS TO PROPOSED STUDIES

The recommended modifications to your proposed study plans are highlighted in ***bold italics***.

Cultural Resource Study Plan

In the afternoon scoping meeting held on December 16, 2008, the Texas Historical Commission (which serves as the Texas State Historic Preservation Office) indicated that erosion and siltation is a problem for cultural resources at the project because there are numerous Caddo archaeological sites, including human remains, which are washing into the Toledo Bend reservoir.

So that effects of erosion and/or sedimentation on cultural resources can be assessed, Section 6.1 (Cultural Resources Study), Task 2 (Field Reconnaissance Survey) of your Cultural Resource Study Plan should be revised as follows (modified language is in bold):

Task 2: Field Reconnaissance Survey. The Authorities will contract with a qualified cultural resource professional to conduct a reconnaissance and visual inspection within the Project's APE. The purpose of this reconnaissance survey will be to:

- a) Identify and document unreported historic resources;
- b) Verify the location and type of reported historic resources, and provide additional documentation, as necessary;
- c) Map the location of historic properties within the APE;
- d) Identify areas where additional cultural resource studies or PM&E measures may be necessary.

The field reconnaissance will include a walkover survey of the selected high probability sites. All unrecorded historic resources encountered during the survey will be documented with the appropriate site, building, or structure forms, as required by the SHPOs. Identified properties will be photographed, and available information for each resource will be recorded, including (but not limited to): resource name and number (if applicable), elevation or range of elevation, description of environmental setting, general description of the resource, observed cultural features and artifacts, areas of occupation and concentrations of cultural material, pertinent natural features, associated soil types, relationship to waterways, relationship to the Project, observed Project affects to the resource (if any), potential Project affects to the resource, recommendations for National Register eligibility, and recommendations for further studies or for avoidance, protection, or mitigation measures.

Schedule A

2

Project No. 2305-020

In addition, the field reconnaissance will include identification of areas of erosion and/or sedimentation located within the APE and determination if any historic resources/properties are located within these areas. Should any historic resources/properties be found, the effects of erosion and/or sedimentation to the historic resources/properties, will be determined as well as whether the effects are project-induced or naturally occurring.

Recreation Use and Need Assessment

In the afternoon scoping meeting held on December 16, 2008, Citizens for Reclaiming Toledo Bend Lake stated that siltation has affected access in and out of the lake on the north end of Toledo Bend reservoir. They also noted that businesses have had to shut down because they no longer have access to the lake.

So that effects of erosion and/or sedimentation on recreation resources can be assessed, Section 6.1 (Recreation Use and Need Assessment), paragraph No.1 of the study's five work elements of your Recreation Use and Need Assessment Study Plan should be revised as follows (modified language is in ***bold italics***):

1. Characterize the existing recreation setting in a regional context to identify the relative uniqueness of the recreation experience at the Project. Identify and characterize: a) current participation in various types of recreation activities (including recreation user profiles for each type, place of residence, length of stay, primary activity, etc), b) participant experience and satisfaction levels including perception of crowding, c) existing facility conditions, ***including any impacts of erosion and/or sedimentation to recreation facilities or access to recreation facilities***, d) facility availability (existing, infill or expansion of existing, and construction of new facilities and planned facility inventory), and e) unsatisfied demand.

ADDITIONAL INFORMATIONNoxious Weeds

1. On page 176 of the PAD, you state that there are substantive littoral zones within the reservoir that host populations of hydrilla, water hyacinth, and giant salvinia. You report that surveys conducted revealed several of these populations are becoming more wide-spread at the project, as well as within the region. You also report that the Sabine River Authority of Texas and the Sabine River Authority of Louisiana, in partnership with the Texas Parks and Wildlife Department (TPWD) and the Louisiana Department of Wildlife and Fisheries (LDWF), are actively surveying the extent of the invasive aquatic species and providing management and education in their control efforts. The PAD, however, does not address terrestrial invasive species.

During the December 16, 2008 scoping meetings, concerns were raised regarding terrestrial invasive vegetation. Specifically, comments pertained to the presence of Chinese tallow, and a need to assess its presence at the project. Documentation of current control measures for existing and potentially occurring terrestrial, invasive vegetation at the project would help assess whether additional surveys or studies would be warranted.

Therefore, after consultation with TPWD and LDWF, provide, at a minimum, the following information:

- a. A description of all survey and control methods for both aquatic and terrestrial, invasive vegetation at the project
- b. Any maps illustrating the location of terrestrial, invasive vegetation
- c. Any plans for long-term monitoring of existing and potentially occurring terrestrial, invasive vegetation at the project

ADDITIONAL STUDY REQUESTS

After reviewing the information in the PAD, we have identified a gap between the information in the PAD and the information needed to assess project effects. As required in section 5.9 of the Commission's regulations we have addressed the seven study request criteria for each of the study requests that follow.

Terrestrial Special-status Species Assessment

Goals and Objectives

§5.9 (b)(1) – *Describe the goals and objectives of each study proposal and the information to be obtained.*

The goal of this study is to evaluate the effects of continued project operation and maintenance and other related activities on federally threatened, endangered, or proposed, candidate species and associated critical habitat, state-listed or sensitive species, Forest Service sensitive species, and other rare species (collectively known as “special-status species”) in the project area. The objectives of the study are to:

1. Identify, describe, and map, using available information, the location of special-status species and their habitat in relationship to the location of project facilities, hydrological changes resulting from project operations, and maintenance activities
2. Identify the need for surveys of special-status species or habitat assessments
3. Identify project-related actions that may influence the distribution of special-status species or their habitat
4. Identify measures that may be taken to protect, mitigate, or enhance special-status species or their habitat

§5.9(b)(2) – *If applicable, explain the relevant resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied.*

Not applicable.

§5.9(b)(3) – *If the requester is not a resource agency, explain any relevant public interest considerations in regard to the proposed study.*

The Federal Energy Regulatory Commission must decide whether to issue a license to the Sabine River Authority of Texas and Louisiana (applicant) for the Toledo Bend Hydroelectric Project. Sections 4(e) and 10(a) of the Federal Power Act require the Commission to give equal consideration to all uses of the waterway on which a project is

located, and what conditions should be placed on any license that may be issued. In making its license decision, the Commission must equally consider the environmental, recreational, fish and wildlife, and other non-developmental values of the project, as well as power and developmental values. Any license issued shall be best adapted to a comprehensive plan for improving or developing a waterway or waterways for all beneficial public uses.

Special-status species are of particular interest because of their rarity and/or ecological functions. Ensuring that environmental measures pertaining to these resources are considered in a reasoned way is relevant to the Commission's public interest determination. Additionally, this information is needed to ensure compliance with the Endangered Species Act and consistency with comprehensive plans and species guidelines (e.g., National Bald Eagle Management Guidelines).

Background and Existing Information

§5.9(b)(4) – *Describe existing information concerning the subject of the study proposal, and the need for additional information.*

Information on wildlife and botanical resources in the PAD includes:

- A table summarizing the special-status species that may occur in the project vicinity, their federal and state status, and a brief description of habitat requirements
- Management plans affecting botanical and wildlife resources

The PAD includes the following conclusions:

“Based on existing lists of RTE [rare, threatened, and endangered] botanical and wildlife species and known species distributions and habitat requirements, several state or federally listed RTE species potentially occur in terrestrial habitats within the project vicinity.

In review of this existing data, known locations and/or critical habitats of terrestrial RTE species are either outside of the Project Boundary (e.g., Red-cockaded Woodpecker) or not affected by Project operations (e.g., Swallow-tailed Kite, Louisiana Black Bear, Rafinesque's Big-eared Bat) due to their habits or habitats being out of the zone of Project influence. The Authorities propose no change in Project operations (e.g., lake levels, downstream flows) or any ground disturbing activities (e.g., timber harvesting, facility construction, other development) that may affect RTE species. Although there may be a nexus

between Project operations and certain terrestrial RTE species, no additional relicensing data collection or relicensing studies are proposed.”

The applicant, however, has not provided specific information on the location of special-status species and their habitat in relationship to the project facilities, operation, and maintenance to allow verification of their conclusions or determine the need to modify project operations or land management within the project boundary to benefit special-status species. During the scoping meeting in December 2008, the Forest Service expressed concerns about the adequacy of information on habitat for the black bear.

Project Nexus

§5.9(b)(5) – *Explain any nexus between project operations and effects (direct, indirect, and/or cumulative) on the resource to be studied, and how the study results would inform the development of license requirements.*

Continued project operation and maintenance could adversely affect threatened or endangered species through direct loss, disturbance, or habitat alterations. If potential affects on threatened, endangered and special-status species are identified, environmental measures may be developed to reduce or eliminate these effects. These potential measures would form the basis for any license articles that may be issued by the Commission.

Proposed Methodology

§5.8(b)(6) – *Explain how any proposed study methodology (including any preferred data collection and analysis techniques, or objectively quantified information, and a schedule including appropriate field season(s) and the duration) is consistent with generally accepted practice in the scientific community or, as appropriate, considers relevant tribal values and knowledge.*

Office Review

Prior to field surveys, the applicant will refine as necessary its list of special-status species included in the PAD based on: (1) literature and database reviews and consultation with knowledgeable agency, tribal, and other biologists, etc.; (2) habitat preferences and ranges of the species; and (3) availability of suitable habitat to support the species based on habitat maps and/or aerial photographs.

Habitat Mapping

The abundance, distribution, and habitat use of all special-status species should be documented and the locations of all special-status species and potential habitat should be

indicated on maps showing the relationship to areas in the vicinity of project facilities, areas affected by hydrological changes resulting from project operations, lands within and adjacent to the project boundary, areas that receive recreational use and other human disturbances, and maintenance activities (road maintenance, vegetation management, weed control, etc.). The maps should also show the area surveyed if surveys are conducted (see below).

Field Surveys

Based on the result of the mapping above, the applicant, after consultation with the U.S. Fish and Wildlife Service, Texas Parks and Wildlife Department, Louisiana Department of Wildlife and Fisheries, Forest Service, and Tribes, should determine the need for species-specific surveys or habitat assessments for special-status species.

If necessary, surveys for target special-status terrestrial species of appropriate habitats should be conducted. Surveys will cover the appropriate habitats directly and indirectly affected by the project during the appropriate seasons or as narrowed as a result of agency and tribal consultation. Multiple surveys should be conducted to locate all special-status species that may potentially be affected by the project. The survey and habitat assessment protocols should follow accepted plant and wildlife species guidelines and protocols appropriate for the target species.¹

Report Preparation

The applicant should prepare a report that includes the results of the mapping efforts and any surveys and habitat assessments and identifies, describes, and assesses the extent to which project-related actions and activities may affect special-status terrestrial species and their habitat. The report should include the issues addressed, objectives, study area, methods, analysis, results, discussion, and conclusions. The report should also include a discussion of consistency with species management plans and any specific measures and specific implementation plans needed to protect special-status species.

Specifically for the bald eagle, the applicant should include a determination of consistency with National Bald Eagle Management Guidelines (May 2007) developed by U.S. Fish and Wildlife Service to help landowners avoid violating the Bald and Golden Eagle Protection Act by disturbing bald eagles. The guidelines recommend, among other things, buffer zones of up to 660 feet to protect nesting eagles. For each identified nest site, the report should describe the amount of project lands and types of habitat that are located within the 660-foot-wide buffer zone around each nest; a description and timing

¹ For example, the *Red-cockaded Woodpecker Survey Protocol* available at <http://www.fws.gov/southwest/es/arlingtontexas/rcwguide.htm>.

of project-related activities, including maintenance activities and recreational facilities and use, that would be expected to occur within the buffer zones during the next license period; and whether these activities would be visible from the nests. Also, the report should describe any potential inconsistencies with the guidelines.

The applicant should document the dates and times of the surveys, methods used, any variation from approved survey protocols, brief description of the habitats or community types present and list of representative species, completed data forms, maps showing the area surveyed and relating location of the species to the proposed activities, and photographs of the habitat. A comprehensive list of all wildlife species observed and identified during surveys should also be included.

For target wildlife species detected, the report should include: numbers of individuals, area of occupied habitat, habitat description, sex, age, activity, condition, and threats to the population. A brief description of each species should be included that should address habitat requirements, known distribution within the study area, and habitat use within the primary study area.

For target plant species detected, the report should include: numbers of individuals, area of occupied habitat, habitat description, phenology, condition, and threats to the population. A brief description of each species should be included that should address habitat requirements and known distribution within the study area.

Rationale should be provided if it is determined that no potential habitat is present (for example, elevation too low, wrong vegetation communities).

The methods described above are consistent with generally accepted methods for conducting wildlife surveys and follow the generally accepted special-status species survey techniques used by federal and state agencies.

Level of Effort and Cost

§5.9(b)(7) – *Describe considerations of level of effort and cost, as applicable, and why any proposed alternative studies would not be sufficient to meet the stated information needs.*

The estimated cost of this work is approximately \$50,000, depending upon the level of information that might be obtained from existing sources and whether additional field surveys are necessary. The study can be completed within one year.

Document Content(s)

19950016.DOC.....1-11