

UNITED STATES OF AMERICA 123 FERC ¶ 62, 152
FEDERAL ENERGY REGULATORY COMMISSION

Georgia Power Company

Project No. 2237-017

ORDER ISSUING NEW LICENSE

(May 22, 2008)

INTRODUCTION

1. On February 27, 2007, Georgia Power Company (Georgia Power or licensee) filed an application for a new license, pursuant to sections 4(e) and 15 of the Federal Power Act (FPA),¹ for the continued operation and maintenance of the 16.8-megawatt (MW) Morgan Falls Hydroelectric Project. The project is located on the Chattahoochee River, a navigable waterway,² in Cobb and Fulton Counties, Georgia. The Morgan Falls Project is located about 36 miles downstream of the U.S. Army Corps of Engineers' (Corps) Buford dam and 12.5 miles upstream of the city of Atlanta, Georgia. The project occupies 14.4 acres of federal lands within the Chattahoochee River National Recreation Area (Chattahoochee Recreation Area), which was created by public law in 1978³ and is managed by the National Park Service (Park Service).⁴ As discussed below, I am issuing a new license for the project.

¹ 16 U.S.C. §§ 797(e) and 808 (2000).

² The Chattahoochee River was found to be navigable up to a point located 12.5 miles below the Morgan Falls Project. *See Georgia Power Co.*, 21 FPC 296 (Middle Chattahoochee Project No. 2177) and *Georgia Power Co.*, 21 FPC 425 (1959) (Morgan Falls Project).

³ Pub L. No. 95-344, 16 U.S.C. § 460 (1978).

⁴ The project is required to be licensed under section 23(b)(1) of the FPA, 16 U.S.C. § 817 (2000) because it occupies federal lands.

BACKGROUND

2. The Commission issued an original license for the project on March 27, 1959,⁵ which has an expiration date of February 28, 2009.

3. On February 27, 2007, Georgia Power filed an application for a new license, prepared using the Commission's integrated licensing process. On May 11, 2007, the Commission issued a notice accepting the license application, soliciting motions to intervene and protests, indicating that the application was ready for environmental analysis, and soliciting comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.⁶ The Department of the Interior (Interior) filed comments, a motion to intervene, and a reservation of authority to prescribe fishways pursuant to section 18 of the FPA. The Upper Chattahoochee Riverkeeper (Riverkeeper) and American Rivers jointly filed comments and a motion to intervene. Neither intervenor opposes the project.

4. On November 9, 2007, Commission staff issued an environmental assessment (EA) for the project. Comments on the EA were filed by local resident Dennis G. Teague; Georgia Power; Georgia Department of Natural Resources, Wildlife Resources Division (Georgia DNR); Interior; Hydropower Reform Coalition (Reform Coalition); and the Riverkeeper and American Rivers.⁷ Comments on the EA are discussed in the Other Issues section of this order.

⁵ 21 FPC 425 (1959). The project was required to be licensed because it was part of an interconnected system that transmits power across state lines for public utility purposes. The project was originally constructed in 1904. The dam height was increased in 1959, resulting in a six-foot-higher operating level. Because the project (1) was located on a body of water over which Congress has Commerce Clause jurisdiction, (2) affected interstate commerce through its connection to an interstate power grid, and (3) had significant post-1935 construction, it was required to be licensed pursuant to section 23(b)(1) of the FPA, 16 U.S.C. § 817(1) (2000).

⁶ 72 Fed. Reg. 28,487 (May 21, 2007).

⁷ The comment letters were filed on December 3, 2007, December 7, 2007, December 7, 2007, December 10, 2007, December 10, 2007, and December 10, 2007, respectively.

5. The motions to intervene, comments, and recommendations have been fully considered in determining whether, and under what conditions, to issue this license.

PROJECT DESCRIPTION AND OPERATION

A. Project Description

6. The Morgan Falls Project dam is a 56-foot-high concrete structure with a total length of 1,031 feet, with a 195.3-foot-long, 73-foot-high combined powerhouse and intake section integral with the dam. The powerhouse is equipped with seven Francis turbines attached to seven generators, with a total generating capacity of 16.8 MW. There are 16 eight-foot-high Taintor gates on top of the spillway section. The tailrace is about 200 feet wide and is separated from the river by a concrete wing wall extending 85 feet downstream of the powerhouse. The narrow 684-acre impoundment, Bull Sluice Lake, is about 7 river miles long. There is no bypassed reach. The licensee is not proposing any additions or major changes to the existing structures. There are no primary transmission facilities associated with the project. A more detailed project description is contained in Ordering Paragraph (B)(2).

B. Project Operations

7. Most of the flow entering the project comes from releases from the Corps' upstream Buford dam and powerplant.⁸ Because the Buford dam's reservoir is substantially larger than the downstream Morgan Falls Project's reservoir, the amount and timing of Buford dam's water releases directly affect the operation of this project. The Buford dam and powerplant are generally operated to provide power at peak-use times, and will generally not generate at non-peak times. The Buford dam also is operated for municipal water supply and wastewater assimilation purposes.

8. Water releases from the Morgan Falls and Buford reservoirs are the main water supply sources for metropolitan Atlanta. The Corps and Georgia Power have entered into separate agreements⁹ with the Atlanta Regional Commission (Regional Commission) to

⁸ The remaining inflow comes from tributaries and intervening drainage between the Buford and Morgan Falls Projects.

⁹ The agreement between Georgia Power and the Regional Commission (referred to as the Statement of Policy) was executed on March 5, 2001, and incorporated into the current license. See 96 FERC ¶ 62,110 (2001). On February 12, 2007, Georgia Power and the Regional Commission executed a new Statement of Policy. For ease of reference, the Statement of Policy is attached as Appendix B.

try to make releases of water so that water levels in both the Morgan Falls and Buford reservoirs are sufficient to ensure that the water needs of metropolitan Atlanta are met.¹⁰ The Regional Commission acts as a coordinator to determine upcoming weekly water supply withdrawal needs.

9. Each week, the Regional Commission meets with representatives of the city of Atlanta; DeKalb County; Cobb County-Marietta Water Authority; and Atlanta-Fulton County Water Resources Commission to discuss water needs. The Regional Commission provides the Corps and Georgia Power with an estimate of the water supply flows needed to be discharged from these two dams.

10. The Corps releases water on a daily basis (generally, Monday through Friday) from Buford dam's 1,957,000 acre-foot reservoir, Lake Lanier, after taking into consideration the information provided by the Regional Commission and other factors. The releases vary in amount, from a minimum flow of 600 cubic feet per second (cfs) to a peaking flow of 10,000 cfs.¹¹ The water released from Buford dam arrives at the Morgan Falls Project about 12 hours later.

11. Under its agreement with the Regional Commission, Georgia Power releases flows to maintain a minimum flow for water supply of 750 cfs, as measured immediately upstream of the confluence with Peachtree Creek, about 12 miles downstream of the project. These released flows range from 849 cfs to 1,164 cfs.¹²

¹⁰ Between the Buford and Morgan Falls dams, there are three water supply intakes and six municipal wastewater treatment facility discharge pipes. Between Morgan Falls dam and Peachtree Creek, located about 12 miles downstream of the Morgan Falls Project, there are two drinking water intakes and two municipal wastewater treatment facility discharge pipes.

¹¹ The Corps and the Regional Commission have an agreement to ensure that the Corps provides an adequate volume of inflow into the Morgan Fall's reservoir, since the Morgan Falls reservoir does not have enough storage to maintain the minimum flow needed for water supply. The Corps releases water even when Buford dam is not generating. Georgia Power is not a party to this agreement.

¹² Georgia Power releases more than 750 cfs to compensate for water supply withdrawals that occur between the Morgan Falls Project and Peachtree Creek. The 750 cfs was set by the Georgia Department of Environmental Protection to meet water quality standards in the Chattahoochee River downstream of the confluence of Peachtree Creek. http://www.gaepd.org/Files_PDF/plans/chatt/chatt-3.pdf

12. Georgia Power releases the flows needed to maintain the flow target upstream of the confluence of Peachtree Creek through the Morgan Falls turbine/generators. When the reservoir reaches its full pond elevation of 866 feet plant datum contour,¹³ excess flows are discharged through the spillway gates.

13. During Buford dam's off-peak power periods, the Morgan Falls Project continues to generate if there is sufficient inflow or impoundment storage¹⁴ to maintain the flow target upstream of the confluence of Peachtree Creek. The reservoir generally has a daily drawdown from full pool of less than four feet. However, it can be drawn down as much as eight feet below full pool.¹⁵

C. Proposed Project Operations and Environmental Measures

14. Georgia Power proposes to continue the current mode of operation. Georgia Power also proposes that the most recent version of the Statement of Policy between Georgia Power and the Regional Commission (executed on February 12, 2007) become the minimum flow requirement for the project.

15. Georgia Power proposes measures to monitor project operations and flow, support the Chattahoochee Nature Center's (Nature Center) proposed visitor interpretation program at the Wetlands Boardwalk, install educational signage to help prevent the spread of invasive aquatic species, control invasive terrestrial vegetation, educate landowners regarding invasive terrestrial plants, protect bald eagles, install and maintain a shoreline angler platform and barrier-free access downstream of Morgan Falls dam, protect and manage historic properties, and install interpretive signage and markers that describe the historic Hightower Trail and the historic hydroelectric resources at Morgan Falls dam.

¹³ Plant datum is 12.39 feet higher than mean sea level datum.

¹⁴ The Morgan Falls Project has a usable storage capacity of about 2,239 acre feet.

¹⁵ Between 1996 and 2005, daily drawdowns from full pool were less than four feet 94 percent of the time, and between four feet and eight feet 6 percent of the time. The reservoir can be drawn down eight feet to the top of the spillway, if necessary.

D. Project Boundary

16. The project boundary is defined by the 868-foot plant datum contour around the Morgan Falls impoundment, which is 2 feet above the normal full pool elevation. The project boundary also includes about 3 acres of property around the dam and powerhouse.

17. The existing project boundary also encloses 14.4 acres of land within the Chattahoochee Recreation Area.¹⁶

WATER QUALITY CERTIFICATION

18. Under section 401(a)(1) of the Clean Water Act (CWA),¹⁷ the Commission may not issue a license authorizing the construction or operation of a hydroelectric project unless the state water quality certifying agency either has issued water quality certification for the project or has waived certification by failing to act on a request for certification within a reasonable period of time, not to exceed one year. Section 401(d) of the CWA provides that the certification shall become a condition of any federal license that authorizes construction or operation of the project.¹⁸

19. On March 20, 2007, Georgia Power applied to the Georgia Department of Natural Resources, Environmental Protection Division (Georgia EPD) for a certification for the Morgan Falls Project, which the Georgia EPD received on March 21, 2007. On March 12, 2008, the Georgia EPD issued certification for the Morgan Falls Project that includes five conditions, which are set forth in Appendix A of this order and incorporated into the license (see ordering paragraph D). Conditions 1 and 2 require compliance with water quality standards during any construction, and prohibit the discharge of pollutants during any construction. Conditions 3 and 4 require notification and mitigation for land-disturbing activities in the state-mandated stream buffers. Condition 5 requires Georgia Power to discharge the flows necessary to implement the Statement of Policy between Georgia Power and the Regional Commission.

¹⁶ The project boundary encloses 3.7 acres of federal lands within the Vickery Creek unit and 10.7 acres in the Island Ford unit. In 1973, Georgia Power conveyed, with reservations, this property to Fulton County, which was later conveyed by the county to the United States.

¹⁷ 33 U.S.C. § 1341(a)(1) (2000).

¹⁸ 33 U.S.C. § 1341(d) (2000).

SECTION 4(e) FINDINGS AND CONDITIONS

20. Section 4(e) of the FPA,¹⁹ provides that the Commission can issue a license for a project located within any reservation only if it finds that the license will not interfere, or be inconsistent with, the purposes for which such reservation was created or acquired. The project occupies lands of the Chattahoochee Recreation Area, which is a federal reservation under Park Service supervision.

21. The Chattahoochee Recreation Area was created by public law issued on August 15, 1978, and amended on October 30, 1984.²⁰ The Chattahoochee Recreation Area's purpose is to protect the scenic recreational and natural values of a 2,000-foot-wide corridor adjacent to each bank of the Chattahoochee River and its impoundments. The Chattahoochee Recreation Area consists of a series of 16 units of land along a 48-mile stretch of the Chattahoochee River between Buford dam and the confluence of Peachtree Creek. The project occupies a portion of two of these units: Island Ford and Vickery Creek.²¹ I have reviewed the public laws that created the Chattahoochee Recreation Area. There is no evidence or allegation in this proceeding to indicate that relicensing of the Morgan Falls Project would interfere with the purposes of the Chattahoochee Recreation Area within which the project is partially located. Therefore, I find that this license, as conditioned herein, will not interfere or be inconsistent with the purposes for which the Chattahoochee Recreation Area was created.

22. FPA section 4(e) further requires that Commission licenses for projects located within federal reservations must include all conditions that the Secretary of the department under whose supervision the reservation falls shall deem necessary for the adequate protection and utilization of such reservation. The Park Service did not file any section 4(e) terms and conditions for the project.²²

¹⁹ 16 U.S.C. § 797(e) (2000).

²⁰ Pub L. No. 95-344, 16 U.S.C. § 460 (1978); and Pub. L. No. 98-568, 98 Stat. 2928 (1984).

²¹ The Island Ford Unit is located in the upper most portion of the impoundment, near Georgia Highway 400. The Vickery Creek Unit is located at the confluence of Big Creek (also known as Vickery Creek) and the Morgan Falls impoundment.

²² Interior did enter into an off-license side agreement (off-license agreement) with Georgia Power. The off-license agreement would help support the Park Service's management of the Chattahoochee Recreation Area.

SECTION 18 FISHWAY PRESCRIPTION

23. Section 18 of the FPA,²³ provides that the Commission shall require the construction, maintenance, and operation by a licensee of such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate.

24. By letter filed July 3, 2007, the Secretary of the Interior requested that the Commission reserve authority to prescribe fishways. Consistent with Commission policy, Article 403 of this license reserves the Commission's authority to require fishways that may be prescribed by Interior for the Morgan Falls Project.

THREATENED AND ENDANGERED SPECIES

25. Section 7(a)(2) of the Endangered Species Act of 1973 (ESA)²⁴ requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of federally listed threatened and endangered species, or result in the destruction or adverse modification of designated critical habitat.

26. No federally listed species or critical habitats are found within the project area. Therefore, the project would have no effect on listed species.

NATIONAL HISTORIC PRESERVATION ACT

27. Under section 106 of the National Historic Preservation Act (NHPA),²⁵ and its implementing regulations,²⁶ federal agencies must take into account the effect of any proposed undertaking on properties listed or eligible for listing in the National Register (defined as historic properties) and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking. This generally requires the Commission to consult with the State Historic Preservation Officer (SHPO) to determine whether and how a proposed action may affect historic properties, and to seek ways to avoid or minimize any adverse effects.

²³ 16 U.S.C. § 811 (2000).

²⁴ 16 U.S.C. § 1536(a) (2000).

²⁵ 16 U.S.C. § 470 *et seq* (2000).

²⁶ 36 C.F.R. Part 800 (2007).

28. To satisfy these responsibilities, on January 15, 2008, the Commission executed a Programmatic Agreement (PA) with the Georgia SHPO, and invited Georgia Power, Park Service, Eastern Band of Cherokee Indians, Seminole Nation of Oklahoma, United Keetoowah Band of Cherokee Indians, Cherokee Nation, Seminole Tribe of Florida, Poarch Band of Creek Indians, Thlopthlocco Tribal Town, Alabama-Quassarte Tribal Town, Muskogee (Creek) Nation, and the Kialegee Tribal Town to concur with the stipulations of the PA. Georgia Power concurred. The Seminole Nation of Oklahoma chose not to concur because the project is outside of the region of Georgia that interests the tribe. The remaining tribes did not respond to the invitation to concur with the PA.

29. The PA requires Georgia Power to implement the final *Historic Properties Management Plan for Morgan Falls Hydroelectric Project (FERC #2237)* (HPMP), dated March 2007.²⁷ Execution and subsequent implementation of the PA demonstrates the Commission's compliance with section 106 of the NHPA. Article 409 requires Georgia Power to implement the PA and HPMP.

RECOMMENDATIONS OF FEDERAL AND STATE FISH AND WILDLIFE AGENCIES

30. Section 10(j)(1) of the FPA,²⁸ requires the Commission, when issuing a license, to include conditions, based on recommendations by federal and state fish and wildlife agencies submitted pursuant to the Fish and Wildlife Coordination Act,²⁹ to "adequately and equitably protect, mitigate damages to, and enhance fish and wildlife (including related spawning grounds and habitat)" affected by the project.

31. Neither the U.S. Fish and Wildlife Service (FWS) nor Georgia DNR filed section 10(j) recommendations for the Morgan Falls Project.

OTHER ISSUES

A. Project Operations

32. Georgia Power proposes to continue operating the project to maintain a target minimum flow of "no more than 750 cfs", as measured immediately above the

²⁷ The executed HPMP was filed with the Commission on May 25, 2007.

²⁸ 16 U.S.C. § 803(j)(1) (2000).

²⁹ 16 U.S.C. §§ 661 (2000) *et seq.*

Chattahoochee River's confluence with Peachtree Creek, which is downstream from the project, to compensate for water withdrawals and to provide adequate flow for wastewater assimilation. I have determined that the continued operation of the project, as required in Article 401 and the conditions of the water quality certification, maintains downstream flows needed for water quality and water supply for the metropolitan Atlanta area.

33. Georgia Power currently monitors U.S. Geological Survey's (USGS) stream gages upstream of Morgan Falls Project and in Bull Sluice Lake to help determine the flow releases needed from the project to achieve the minimum flow needed for water supply and wastewater assimilation. Article 402 requires Georgia Power to continue monitoring these gages to ensure that this flow is met, as required by condition number 5 of the water quality certification.

B. Geology and Soils

34. The Riverkeeper and American Rivers state that, in preparing the EA, staff failed to consider a dredging alternative as a reasonable alternative for the project. The Riverkeeper and American Rivers note that they do not expressly advocate dredging the reservoir, but that an examination of dredging as an alternative to current project operations should have been addressed in the EA.

35. During the proceeding, the Riverkeeper and American Rivers advocated dredging the impoundment to improve recreational boating and fishing, as well as water resources in the reservoir. Commission staff, in examining dredging for these issues,³⁰ determined that it was not a reasonable alternative. Sedimentation in the impoundment is at or approaching equilibrium. Dredging would not provide any benefit to generation. It would provide minimal benefits to boating recreationists, but staff found that the cost far outweighed the benefit.³¹

36. The Riverkeeper and American Rivers state that staff ignored the fact that sediment is mobile in the reservoir. They indicate that ongoing and future project operations may result in sediment deposits that do not exist now, but which could affect recreation in the future.

³⁰ EA at 28-31 and 70-72.

³¹ The estimated cost, including transportation and disposal, ranged from \$1,860,000 to \$140,694,000, to dredge the impoundment. EA at 3-4, 70-72, and 94.

37. As noted, the sediment in the reservoir is at or approaching equilibrium, which means that the total amount of sediment currently within the reservoir is not expected to increase, rather the amount of sediment should be at or nearly the same in the future. Staff expects that because the reservoir is nearing, or at, equilibrium, the total amount of sediment obstacles that the boating clubs experience should not increase in the future.³²

38. The Riverkeeper and American Rivers contend that in the EA, Commission staff erred in its analysis by determining that all of the shoreline erosion stems from the project operations of the upstream Buford dam.^{33, 34}

39. The Riverkeeper and American Rivers are mistaken. Commission staff did not find that all of the erosion was caused by the operation at Buford dam.³⁵ Rather, staff found that the most common potential sources of erosion observed during the 2005 reconnaissance survey (in descending order of frequency of occurrence) were adjacent impervious surfaces (and associated runoff), stormwater runoff from surrounding areas, public recreation/access activities, and water level fluctuations associated with Buford dam peaking releases. Typically, the sites with a high potential for erosion were in areas having a lack of vegetation caused by activities other than project operations, such as human activity, runoff from adjacent impervious surfaces, animal activity, Buford dam flows, and storm water discharges.

40. Georgia Power proposes to provide a one time funding for the Riverkeeper's *Get The Dirt Out* Program, which helps educate and increase awareness among the public about water quality issues and measures to control urban runoff from areas outside the project boundary. I am not requiring Georgia Power to fund this program because there is no nexus between project operations and upstream erosion and sedimentation of the

³² Although it is true that sediment is mobile, Commission staff found that the total amount of shallow flats, islands, and berms in the reservoir occur in about the same locations today as occurred in the 1960s. EA at 71.

³³ The Riverkeeper and American Rivers did not recommend any measures to correct the erosion.

³⁴ The Riverkeeper and American Rivers also state that daily fluctuations for the Morgan Falls reservoir generally range from 4 to 8 feet. As noted by staff in the EA, between 1996 and 2005, daily drawdowns from full pool were less than four feet 94 percent of the time. EA at 6.

³⁵ *Id.* at 17 and 18.

Chattahoochee River. Controlling nonpoint sources outside the project boundary, which are contributing to reduced water quality in the project reservoir, are beyond the scope and requirements of a licensee because they are not project-induced effects.

C. Aquatic Resources

41. The Riverkeeper and American Rivers also contend that the EA failed to address the effects sedimentation has had on the destruction of aquatic habitat and the resulting impacts on aquatic species.

42. No evidence was provided to support the claim that sedimentation had destroyed aquatic habitat and had adverse effects on aquatic species. In the EA, staff determined that: (1) the mainstem of the Chattahoochee River between Buford dam and Morgan Falls dam contained 38 fish species; (2) the fish community in Bull Sluice Lake was relatively diverse and ecologically balanced; (3) there is a popular fly fishing sport fishery for trout in the upper reaches of the reservoir; and (4) the shallow reservoir supports self-sustaining warmwater and coolwater fish species.³⁶

D. Water Resources

43. Georgia DNR, the Riverkeeper, and American Rivers do not concur with the EA's conclusion that operation of the Morgan Falls Project contributes little to increased water temperatures downstream of the Morgan Falls dam. The Riverkeeper and American Rivers assert that project operations contribute to increased temperatures in the tailrace as the shallow flats in the impoundment drain during impoundment drawdown. Staff concludes that the primary contributors to increased temperatures in the Morgan Falls tailwater are non-point stormwater runoff and the large air to water interface presented by the impoundment. Georgia Power's temperature monitoring shows that most of the temperature increase occurs in the upper reach of the impoundment which receives 97 percent of the local tributary input and upstream of where 74 percent of the impoundments shallow flats are located.³⁷ Therefore, impoundment drawdowns, as a result of operating the Morgan Falls Project, do not significantly affect water temperatures.

³⁶ *Id.* at 35-37, 72, and 88.

³⁷ *Id.* at 27 and 28.

E. Terrestrial Resources

44. The Nature Center intends to rebuild its Wetlands Boardwalk within the Morgan Falls Project boundary. Georgia Power proposes to complement the rebuilt Wetlands Boardwalk by providing a new visitor interpretation program along the boardwalk within the project boundary. A new visitor interpretation program would promote the protection of wetland and riparian resources in the Chattahoochee River watershed and enhance the recreational experience for about 100,000 annual visitors to the Nature Center.³⁸

Accordingly, Article 404 requires the development and implementation of a visitor interpretation program.

45. Alligator weed, Brazilian waterweed, wart-removing herb, parrot feather watermilfoil, true forget-me-not, and yellow flag are nuisance aquatic species that currently occur in the project impoundment. While aquatic plants have not been a significant issue for recreationists or project operations, there is a potential for further dispersal of these species within and outside of the Morgan Falls Project boundary.

46. Georgia Power proposes to educate project visitors on preventing the transport of nuisance aquatic vegetation and other nuisance species by installing signage of the “Stop Aquatic Hitchhikers!” national campaign at the Azalea Park boat launch³⁹ and the Morgan Falls tailrace. Therefore Article 405 requires the posting of “Stop the Aquatic Hitchhikers!” signage, which would help to prevent the transport of aquatic nuisance species.

47. Chinese privet, golden bamboo, Japanese honeysuckle, English ivy, wisteria, and kudzu are among the invasive plant species that have become established on Morgan Falls Project lands, and on properties of adjacent landowners. If left untreated, the invasive plant species occurring in the project area would likely continue to spread, displace native plants, and alter ecosystem structure and function, within and adjacent to, the project boundary. Georgia Power proposes to implement an invasive terrestrial vegetation management plan for the 3 acres of project lands owned by Georgia Power, and to develop a brochure to educate land owners, within or adjacent to the project boundary, on best management practices to reduce invasive terrestrial vegetation. Article

³⁸ *Id.* at 89.

³⁹ Azalea Park, which is owned and operated by the city of Roswell, extends along the north bank of the Morgan Falls impoundment. The park extends partly into the project boundary.

406 requires the development and implementation of an invasive terrestrial vegetation management program which includes the invasive terrestrial vegetation management plan and the brochure.

48. Bald eagles are not currently residing in the Morgan Falls Project area, but there is a potential for nesting in the future. While the proposed project is not likely to affect bald eagles in the project area, Georgia Power proposes to develop a management plan for bald eagles because there is the potential for nesting in the future. Article 407 requires the monitoring of bald eagles.

F. Recreation

49. Bank fishing is the most popular activity in the project tailrace. However, the tailrace area lacks formal bank fishing facilities. Georgia Power proposes to construct, operate, and maintain a shoreline angler platform and barrier-free access downstream of Morgan Falls dam. However, Georgia Power did not provide: (1) the final design drawings; (2) measures to control soil erosion during construction; (3) provisions to manage the recreation facility and the existing canoe portage; and (4) a discussion of how the needs of the disabled were considered. Article 408 approves the shoreline angler platform and barrier-free access downstream of the dam, and requires Georgia Power to file the above-listed items prior to construction of the facility.

50. Dennis G. Teague comments that it is difficult to launch and retrieve a trailered boat at the boat ramp located below the Morgan Falls dam because of fast moving water. He proposes that Georgia Power build a new ramp at Paces Mill, a unit of the Chattahoochee Recreation Area, to mitigate for the poor boat ramp design at the Morgan Falls tailrace.

51. The boat ramp is not a project facility. It is owned and operated by Georgia DNR. The release of project flows to the tailrace, however, can cause recreationists to battle fast currents while launching their boats from this ramp. To address this issue, the Georgia DNR plans to redevelop its boat ramp at the tailrace. Once redeveloped, the Georgia DNR will continue to operate and maintain the ramp.⁴⁰

⁴⁰ While the Morgan Falls tailrace boat ramp is being redeveloped, Mr. Teague has the option of launching a boat at Johnson Ferry North, a unit of the Chattahoochee Recreation Area that is about 1 river mile downstream of the tailrace boat ramp.

52. The Paces Mill unit is located about 8.5 river miles downstream of the Morgan Falls dam, and has an existing boat ramp.⁴¹ Project operation does not affect a recreationist's ability to launch at the Paces Mill boat ramp; rather a nearby gravel bar restricts the launching of boats. Because the project does not affect the use of the boat ramp, I conclude that Georgia Power is not required to build a new boat ramp at this location.

53. In an effort to improve safety for water-based recreationists, the Georgia DNR recommends that Georgia Power expand their existing telephone information line to include daily river conditions, reservoir levels, and generation times at the Morgan Falls Project. Currently, it provides general information concerning the amenities at Georgia Power hydropower projects throughout the state and whitewater boating releases at the Tallulah Falls dam.

54. There has been no documentation of safety-related issues for boaters who use the reservoir to recreate. In addition, the project generates power when the inflow is sufficient. These flows generally occur when Buford dam is releasing peaking flows, which do not always occur in a predictable manner, so it would be difficult for Georgia Power to provide generation information on a daily basis.

55. Recreationists can obtain real-time information on discharge and river conditions through the USGS's National Water Information System website. The website provides the information gathered at the following USGS gaging stations: (1) at Buford dam; (2) at the Chattahoochee River near Norcross and Roswell, GA; and (3) at Big Creek.⁴² The website also provides real time reservoir levels for the Morgan Falls dam. The USGS website should be sufficient for boaters to determine the river conditions at the project. Therefore, I conclude that Georgia Power is not required to provide this information on its telephone information line.

G. Cultural Resources

56. Georgia Power proposes to install interpretive markers to commemorate the historic Hightower Trail at the city of Roswell's Azalea Park,⁴³ and the historic Morgan

⁴¹ This boat ramp does not fulfill any project purpose.

⁴² All of the USGS gages are located between Buford dam and the Morgan Falls dam.

⁴³ Azalea Park is located along the north bank of the Morgan Falls impoundment, about 4 miles upstream of the Morgan Falls Project dam.

Falls Project at the project's tailrace area. The Hightower Trail was one of the best known Indian trading and travel routes in Georgia. The trail is recognized as a former boundary between Cherokee lands to the north and Creek lands to the south. A portion of the trail crossed the Chattahoochee River, near river mile 317, the present-day site of the Azalea Park boat ramp.⁴⁴ The Morgan Falls Project, built in the early 1900s, was the first hydropower facility developed by S. Morgan Smith, the inventor of the Smith water turbine, and for whom the project is named. The project was also among the first, and by far the largest, of the early hydroelectric developments built in Georgia.⁴⁵

57. Both the project and the trail have been integral to the growth of the metro Atlanta region. Remnants of the Hightower trail remain in use as part of present-day roads, and the project has provided energy to the region for over 100 years. Article 410 requires Georgia Power to install the markers.

H. Carbon Emissions

58. The Reform Coalition states that staff's analysis of the project's contribution to and displacement of carbon is overly simplistic because it assumes that if the Morgan Falls Project were to stop generating, the power would be replaced by a coal-burning plant, rather than another source of generation.

59. Staff cannot predict with certainty the replacement source of power if the Morgan Falls Project were to stop generating. In this case, staff used coal because it is the predominant source of generation nationally. Energy Information Administration's Electric Power Annual (2007) reports that 49 percent of all generation in the U.S. is from coal fuel, 19 percent from nuclear, 20 percent from natural gas, 3 percent from other fossil fuels, and 9 percent from renewables.

60. The Reform Coalition also points out that reservoirs are sources of carbon emissions, and that those emissions are possibly significant. The Reform Coalition further states that "a lake with an area of three square kilometers (km) emits 660,000 grams⁴⁶ of carbon dioxide and 33,000 grams of methane each year."⁴⁷ The Reform

⁴⁴ Although the trail no longer exists, where the trail would have crossed the Chattahoochee River is within the project boundary.

⁴⁵ EA at 73.

⁴⁶ One metric ton equals 1,000,000 grams.

⁴⁷ According to the reference material submitted by the Reform Coalition, the units
(continued)

Coalition's calculations are based on information cited in the report *Reservoir Surfaces as Sources of Greenhouse Gases to the Atmosphere: A Global Estimate*.⁴⁸

61. The science to determine the amount of emissions released by hydropower reservoirs is still developing. The authors of the Reform Coalition's cited report acknowledged that further research of hydropower reservoirs in all global regions is needed to accurately determine the amount of greenhouse gases potentially emitted. Nevertheless, using the Reform Coalition's calculations, the Morgan Falls Project reservoir, which has an area of 684 acres or 2.768 square km, would potentially annually emit 223 metric tons of carbon dioxide and 11 metric tons of methane. If the power produced at the Morgan Falls Project [56,000 megawatt-hours (MWh)] were replaced by a coal burning facility, about 53,000 metric tons of carbon dioxide would annually be emitted into the atmosphere. Even under the worst case scenario offered by the Reform Coalition, the estimated 223 metric tons of carbon dioxide potentially emitted by the project reservoir annually does not constitute a *significant* source of carbon dioxide when compared to 53,000 metric tons.

I. Project Boundary

62. Project boundaries are used to designate the geographic extent of the lands, waters, works, and facilities that the license identifies as comprising the licensed project and for which the licensee must hold the rights necessary to carry out the project purposes.⁴⁹ Therefore, the shoreline angler platform and barrier-free access downstream of the project need to be included in the project boundary. The facilities do not exist yet, but once completed Article 301 requires the licensee to file revised Exhibit G to include these completed facilities.

used are actually *per day* and not per year. Our calculations are based on per day emissions as cited in the original reference.

⁴⁸ St. Louis, V. et. al. 2000. *Reservoir Surfaces as Sources of Greenhouse Gases to the Atmosphere: A Global Estimate*, BioScience, Vol. 50, Issue 9, p. 766-775.

⁴⁹ See, e.g., 18 C.F.R. § 4.41(h)(2) (2007); and *Wisconsin Public Service Corporation*, 104 FERC ¶ 61,295 at P 16 (2003). A project boundary does not change property rights: title to lands within the boundary can be owned by someone other than the licensee, so long as the licensee holds the necessary property interests and permits to carry out project purposes.

J. Administrative Conditions

1. Annual Charges for Use of Federal Lands

63. As noted above, the project includes 14.4 acres of land within the Chattahoochee Recreation Area. The land is along the shoreline of the reservoir and subject to periodic flooding when the reservoir level is high.

64. In its license application, Georgia Power states that it should not be assessed annual charges for this federal land because it has sufficient rights on that land to carry out project purposes.⁵⁰ Georgia Power noted that in 1973, it conveyed, with reservations, certain property to Fulton County that was later conveyed by the county to the United States. This property includes the 14.4 acres of federal land within the project boundary.

65. On March 30, 2007, Commission staff requested that Georgia Power provide evidence that it retained sufficient property rights in this land. On April 30, 2007, Georgia Power filed copies of the relevant deeds.

66. The information provided by Georgia Power indicates that it did own the parcels, and that when transferring the land, it retained the right to, among other things, use the premises conveyed for “project purposes” and “flood, inundate, and back water continuously and intermittently over and upon any portion of the land now or hereto after lying below the 868-foot plant datum contour line.”⁵¹

67. Section 10 of the FPA directs the Commission to assess licensees an annual charge to recompense the United States “for the use, occupancy, and enjoyment” of its lands. Where a licensee conveys lands to the United States but retains all rights sufficient to carry out project purposes, the Commission does not assess annual charges for the project’s occupancy of government lands.⁵² Because Georgia Power has demonstrated

⁵⁰ License Application, Exhibit E, at 6.

⁵¹ Agreement between Georgia Power and Fulton County, dated December 6, 1973, included as part of attachment B to the April 30, 2007 letter filed by Georgia Power.

⁵² See *Consumers Power Company*, 73 FERC ¶ 61,093 (1995), citing *Pacific Gas and Electric Company*, 56 FPC 964 (1976), and *Pacific Gas and Electric Company*, 2 FERC ¶ 61,105 (1978),

that it has sufficient rights retained in the 14.4 acres of federal land within the project boundary, it is appropriate to not assess annual charges for use of federal land.

68. The Commission collects annual charges from licensees for administration of the FPA. Article 201 provides for the collection of funds for administration of the FPA.

2. **Exhibit Drawings**

69. The Commission requires licensees to file sets of approved project drawings on microfilm and in electronic file format. Article 202 requires the filing of the exhibit drawings.

3. **Amortization Reserve**

70. The Commission requires that, for new major licenses, licensees must set up and maintain an amortization reserve account upon the effective date of the license. Article 203 requires the establishment of the account.

4. **Headwater Benefits**

71. Some projects directly benefit from headwater improvements that were constructed by other licensees, the United States, or permittees. Article 204 requires the licensee to reimburse such entities for these benefits if they were not previously assessed and reimbursed.

5. **Use and Occupancy of Project Lands and Waters**

72. Requiring a licensee to obtain prior Commission approval for every use or occupancy of project land would be unduly burdensome. Therefore, Article 411 allows the licensee to grant permission, without prior Commission approval, for the use and occupancy of project lands for such minor activities as landscape planting. Such uses must be consistent with the purposes of protecting and enhancing the scenic, recreational, and environmental values of the project.

6. **Review of Final Plans and Specifications**

73. Where new construction or modifications to the project are involved, the Commission requires a licensee to file revised drawings of project features as built. Article 301 provides for the filing of these drawings.

STATE AND FEDERAL COMPREHENSIVE PLANS

74. Section 10(a)(2)(A) of the FPA⁵³ requires the Commission to consider the extent to which a project is consistent with federal or state comprehensive plans for improving, developing, or conserving a waterway or waterways affected by the project.⁵⁴ Under section 10(a)(2)(A), federal and state agencies filed 20 comprehensive plans that address various resources in Georgia. Of these, the staff identified and reviewed 10 plans that are relevant to this project.⁵⁵ No conflicts were found.

APPLICANT'S PLANS AND CAPABILITIES

75. In accordance with sections 10(a)(2)(C) and 15(a) of the FPA,⁵⁶ Commission staff evaluated Georgia Power's record in these areas: (1) conservation efforts; (2) compliance history; (3) safe management, operation, and maintenance of the project; (4) ability to provide efficient and reliable electric service; (5) need for power; (6) transmission services; (7) cost effectiveness of plans; and (8) actions affecting the public. I accept the staff's findings in each of the following areas.

A. Conservation Efforts

76. Section 10(a)(2)(C) of the FPA requires the Commission to consider the extent of electricity consumption efficiency improvement programs in the case of license applicants primarily engaged in the generation or sale of electric power, like Georgia Power. Georgia Power conducts numerous programs and initiatives to promote demand reduction and energy conservation including Direct Load Control, Conservation Energy Star Information, Weatherization Assistance for Low Income Customers, Demand Side Management, and others. These programs show that Georgia Power is making an effort to conserve electricity and has made a satisfactory good faith effort to comply with section 10(a)(2)(C) of the FPA.

⁵³ 16 U.S.C. § 803(a)(2)(A) (2000).

⁵⁴ Comprehensive plans for this purpose are defined at 18 C.F.R. § 2.19 (2007).

⁵⁵ The list of applicable plans can be found in section IX of the EA.

⁵⁶ 16 U.S.C. §§ 803(a)(2)(C) and 808(a) (2000).

B. Compliance History and Ability to Comply with the New License

77. Based on a review of Georgia Power's compliance with the terms and conditions of the existing license, I find that Georgia Power's overall record of making timely filings and compliance with its license is satisfactory. Therefore, I find that Georgia Power can satisfy the conditions of a new license.

C. Safe Management, Operation, and Maintenance of the Project

78. Staff has reviewed Georgia Power's management, operation, and maintenance of the Morgan Falls Project, pursuant to the requirements of 18 C.F.R. Part 12 and the Commission's Engineering Guidelines and periodic Independent Consultant's Safety Inspection Reports. I conclude that the dam and other project works are safe, and that there is no reason to believe that Georgia Power cannot continue to safely manage, operate, and maintain these facilities under a new license.

D. Ability to Provide Efficient and Reliable Electric Service

79. Staff has reviewed Georgia Power's plans and its ability to operate and maintain the project in a manner most likely to provide efficient and reliable electric service. Staff's review indicates that Georgia Power regularly inspects the project turbine generator units to ensure they continue to perform in an optimal manner, schedules maintenance to minimize effects on energy production, and since the project has been in operation, has undertaken several initiatives to ensure that the project is able to operate reliably into the future. I conclude that Georgia Power is capable of operating the project to provide efficient and reliable electric service in the future.

E. Need for Power

80. Georgia Power serves over two million customers in a service territory encompassing 57,000, of the state of Georgia's 59,000, square miles. The company owns, or has interests in, electric generating plants with a total capacity of 15,000 MW, of which 1,090 is hydro. The Morgan Falls Project has an installed capacity of 16.8 MW and has produced an average of about 56,200 MWh of energy annually over the period 1961 to 2005.

81. The project is located within the Southeastern Electric Reliability Council (SERC) region of the North American Electric Reliability Council (NERC). In turn, the SERC region is geographically divided into five sub-regions: Central, Delta, Gateway, Southeastern, and Virginia-Carolinas Area. Georgia Power, as part of the Southern Company, is a member of the Southeastern sub-region.

82. According to NERC's latest report (October 2007), during the summer season, which is the heaviest demand period for the Southern Company and Georgia Power, the forecasted annual increase in capacity demand over the 2007 - 2016 period is 1.9 percent for the SERC region and 2.4 percent for the Southeastern sub-region. The forecasted annual increase in summer energy demand over the same period will reach 1.7 percent for the SERC region and 2.3 percent for the Southeastern sub-region. These data show that the Southeastern sub-region has even greater capacity and energy needs than the SERC region.

83. I conclude that present and future use of the project's low-cost power, contribution to a diversified generation mix, and the increase in capacity and energy demand over the period 2007 - 2016 support a finding that the power from the Morgan Falls Project will help meet a need for power in the Southern Company service territory and in the SERC region for the short and long terms. Also the power from the project will continue to displace the operation of fossil-fueled facilities thus avoiding significant emissions and creating an environmental benefit.

F. Transmission Services

84. The project has no primary transmission lines. Georgia Power has no plans that would affect other transmission services in the region.

G. Cost Effectiveness of Plans

85. Georgia Power plans to provide minor enhancements for environmental resources affected by the project. Based on Georgia Power's record as an existing licensee, staff concludes that these plans are likely to be carried out in a cost-effective manner.

H. Actions Affecting the Public

86. Georgia Power has provided numerous opportunities for public involvement in the development of its application for a new license for the project. During the previous license period and with the environmental enhancement measures proposed for the relicense, Georgia Power provided numerous services to enhance the public use of project lands and facilities. Georgia Power has also operated the project with consideration for metropolitan Atlanta's water supply. Georgia Power uses the project to help meet local power needs and pays taxes that contribute to the cost of public services provided by local government.

PROJECT ECONOMICS

87. In determining whether to issue a new license for an existing hydroelectric project, the Commission considers a number of public interest factors, including the economic benefits of project power. Under the Commission's approach to evaluating the economics of hydropower projects, as articulated in *Mead Corp.*,⁵⁷ the Commission uses current costs to compare the costs of the project and likely alternative power, with no forecasts concerning potential future inflation, escalation, or deflation beyond the license issuance date. The basic purpose of the Commission's economic analysis is to provide a general estimate of the potential power benefits and the costs of a project, and of reasonable alternatives to project power. The estimate helps to support an informed decision concerning what is in the public interest, with respect to a proposed license.

88. In applying this analysis to the Morgan Falls Project, staff considered two options: Georgia Power's proposal and the project as licensed herein. As proposed by Georgia Power, the levelized annual cost of operating the Morgan Falls Project is \$1,714,909, or \$30.51/MWh. The proposed project would generate an estimated average of 56,200 MWh of energy annually. When staff multiplies the estimate of average generation by the alternative power cost of \$60/MWh,⁵⁸ staff gets a total value for the project's power of \$3,372,000 in 2007 dollars. To determine whether the proposed project is currently economically beneficial, staff subtracts the project's cost from the value of the project's power.⁵⁹ Therefore, in the first year of operation, the project would cost \$1,657,091 or \$29.49/MWh less than the likely alternative cost of power.

89. As licensed herein with the mandatory conditions and staff measures, the levelized annual cost of operating the project would be about \$1,713,191, or \$30.48/MWh.⁶⁰ Based on an estimated average generation of 56,200 MWh as licensed, the project would produce power valued at \$3,372,000, when multiplied by the \$60/MWh value of the

⁵⁷ 72 FERC ¶ 61,027 (1995).

⁵⁸ The alternative power cost of \$60 per MWh is based on the Platts publication of daily power cost in the SERC area as of October 2007.

⁵⁹ Details of staff's economic analysis for the project as licensed herein and for various alternatives are included in the EA issued November 9, 2007.

⁶⁰ The annual cost of operating the project is less with the staff-recommended alternative because staff did not recommend that Georgia Power implement its proposed payment to the Riverkeeper for its *Get the Dirt Out* program.

project's power. Therefore, in the first year of operation, project power would cost \$1,658,809 or \$29.52/MWh less than the likely alternative cost of power.

COMPREHENSIVE DEVELOPMENT

90. Sections 4(e) and 10(a)(1) of the FPA⁶¹ require the Commission to give equal consideration to the power development purposes and to the purposes of energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife, the protection of recreational opportunities, and the preservation of other aspects of environmental quality. Any license issued shall be such as in the Commission's judgment will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for all beneficial public uses. The decision to license this project, and the terms and conditions included herein, reflect such consideration.

91. The EA for the Morgan Falls Project contains background information, analysis of effects, and support for related license articles. I conclude based on the record of this proceeding, including the EA and the comments thereon, that licensing the Morgan Falls Project, as described in this order, would not constitute a major federal action significantly affecting the quality of the human environment. The project will be safe if operated and maintained in accordance with the requirements of this license.

92. Based on staff's independent review and evaluation of the project, recommendations from the resource agencies and other stakeholders, and the no-action alternative, as documented in the EA, I have selected the proposed project, with staff's recommended measures. I find the staff alternative is best adapted to a comprehensive plan for improving or developing the Chattahoochee River.

93. I have selected this alternative because: (1) issuance of a new license will serve to maintain a beneficial, dependable, and inexpensive source of electric energy; (2) the required measures will protect and enhance water quality, fishing opportunities, and historic properties; and (3) the 56,200 MWh of electricity generated annually from this renewable resource will continue to replace the use of fossil-fueled, steam-electric generating plants, thereby conserving nonrenewable energy resources and reducing atmospheric pollution.

⁶¹ 16 U.S.C. §§ 797(e) and 803(a)(1) (2000), respectively.

LICENSE TERM

94. Section 15(e) of the FPA⁶² provides that any new license issued shall be for a term that the Commission determines to be in the public interest, but not less than 30 years or more than 50 years. The Commission's general policy is to establish 30-year terms for projects with little or no redevelopment, new construction, new capacity, or environmental mitigation or enhancement; 40-year terms for projects with a moderate amount of such activities; and 50-year terms for projects with extensive measures.⁶³ This license authorizes no new construction or new capacity, and only a minor amount of new environmental mitigation measures. Consequently, a 30-year license term for the Morgan Falls Hydroelectric Project is appropriate.

95. Because the term of the current license does not expire until February 28, 2009, this license order is not effective until March 1, 2009.⁶⁴

The Director orders:

(A) This license is issued to Georgia Power Company (licensee), for a period of 30 years, effective March 1, 2009, to operate and maintain the Morgan Falls Hydroelectric Project. This license is subject to the terms and conditions of the FPA, which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the provisions of the FPA.

(B) The project consists of:

(1) All lands, to the extent of the licensee's interests in those lands, enclosed by the project boundary shown by exhibit G filed April 30, 2007.

<u>Exhibit G Drawing</u>	<u>FERC No. 2237-</u>	<u>Description</u>
Sheet G-1	1004	Exhibit G Map, Sheet Index
Sheet G-2	1005	Exhibit G Map, Sheet 1 of 3

⁶² 16 U.S.C. § 808(c) (2000).

⁶³ See *Consumers Power Company*, 68 FERC ¶ 61,077 at 61,383-84 (1994).

⁶⁴ For this reason, the various deadlines in the license articles are measured from the March 1, 2009 effective date, rather than from the order issuance date.

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Sheet G-3	1006	Exhibit G Map, Sheet 2 of 3
Sheet G-4	1007	Exhibit G Map, Sheet 3 of 3

(2) Project works consisting of: (1) a 1,031-foot-long, 56-foot-maximum height concrete gravity dam, consisting of; (i) a 46-foot-long, non-overflow westerly abutment; (ii) a 680-foot-long gated spillway with 16, 40-foot-wide by 8-foot-high Taintor gates; (iii) a 20.7-foot-long trash gate section, containing one 8-foot-wide by 4-foot-high trash gate; (iv) a 195.3-foot-long, 73-foot-high combined powerhouse and intake section integral with the dam and containing seven horizontal double runner Francis turbines coupled to seven generating units with a total generating capacity of 16.8 megawatts; and (v) an 89-foot-long non-overflow easterly abutment; (2) a 200-foot-wide tailrace separated from the river by an 85-foot-long concrete wing wall extending downstream of the powerhouse; (3) a 684-acre reservoir (Bull Sluice Lake) at normal full pool elevation of 866.0 feet plant datum;⁶⁵ and (4) appurtenant facilities. There are no primary transmission lines associated with the project.

The project works generally described above are more specifically shown and described by those portions of exhibits A and F shown below:

Exhibit A: Pages 1 to 9 of Exhibit A and pages 3 to 11 of Appendix A, filed on February 27, 2007.

Exhibit F: The following sections of exhibit F filed on February 27, 2007:

<u>Exhibit F Drawing</u>	<u>FERC No. 2237-</u>	<u>Description</u>
Sheet F-1	1001	General Plan, Elevation, and Typical Sections of Dam and Powerhouse
Sheet F-2	1002	Powerhouse, Plan and Operating Floor
Sheet F-3	1003	Cobb and Fulton County, West and East Abutments

⁶⁵ Plant datum is 12.39 feet higher than mean sea level datum.

(3) All of the structures, fixtures, equipment or facilities used to operate or maintain the project, all portable property that may be employed in connection with the project, and all riparian or other rights that are necessary or appropriate in the operation or maintenance of the project.

(C) The exhibits A, F, and G described above are approved and made part of the license.

(D) This license is subject to the conditions of the water quality certification issued by the Georgia Department of Natural Resources, Environmental Protection Division, pursuant to section 401(a) of the Clean Water Act, 33 U.S.C. § 1341(a)(1), as those conditions are set forth in Appendix A to this order.

(E) The Statement of Policy (for information only) between the Atlanta Regional Commission and the licensee is attached as Appendix B for ease of reference.

(F) This license is also subject to the articles set forth in Form L-1 (Oct. 1975), entitled, "Terms and Conditions of License for Constructed Major Project Affecting Lands of the United States" (*see* 54 FPC 1799 *et seq.*(1975)), and the following additional articles:

Article 201. *Administrative Annual Charges.* The licensee shall pay the United States annual charges, effective the first day of the month in which the license is effective, and as determined in accordance with provisions of the Commission's regulations in effect from time to time, for the purposes of reimbursing the United States for the cost of administration of Part I of the Federal Power Act. The authorized installed capacity for that purpose is 16.8 megawatts.

Article 202. *Exhibit Drawings.* Within 45 days of the effective date of the license, the licensee shall file the approved exhibit drawings in aperture card and electronic file formats.

a) Four sets of the approved exhibit drawings shall be reproduced on silver or gelatin 35mm microfilm. All microfilm shall be mounted on type D (3-1/4" X 7-3/8") aperture cards. Prior to microfilming, the FERC Project-Drawing Number (i.e., P-2237-1001 through P-2237-1003) shall be shown in the margin below the title block of the approved drawing. After mounting, the FERC Drawing Number shall be typed on the upper right corner of each aperture card. Additionally, the Project Number, FERC Exhibit (i.e., F-1, G-1, etc.), Drawing Title, and date of this license shall be typed on the upper left corner of each aperture card.

Two sets of aperture cards shall be filed with the Secretary of the Commission, ATTN: OEP/DHAC. The third set shall be filed with the Commission's Division of Dam Safety and Inspections Atlanta Regional Office.

b) The licensee shall file two separate sets of exhibit drawings in electronic raster format with the Secretary of the Commission, ATTN: OEP/DHAC. A third set shall be filed with the Commission's Division of Dam Safety and Inspections Atlanta Regional Office. Exhibit F drawings must be identified as (CEII) material under 18 CFR §388.113(c). Each drawing must be a separate electronic file, and the file name shall include: FERC Project-Drawing Number, FERC Exhibit, Drawing Title, date of this license, and file extension in the following format (P-2237-####, F-1, Description, MM-DD-YYYY.TIF). Electronic drawings shall meet the following format specification:

IMAGERY - black & white raster file
 FILE TYPE – Tagged Image File Format, (TIFF) CCITT Group 4
 RESOLUTION – 300 dpi desired, (200 dpi min)
 DRAWING SIZE FORMAT – 24” X 36” (min), 28” X 40” (max)
 FILE SIZE – less than 1 MB desired

Article 203. Amortization Reserve. Pursuant to section 10(d) of the Federal Power Act, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. The licensee shall set aside in a project amortization reserve account at the end of each fiscal year one half of the project surplus earnings, if any, in excess of the specified rate of return per annum on the net investment. To the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year, the licensee shall deduct the amount of that deficiency from the amount of any surplus earnings subsequently accumulated, until absorbed. The licensee shall set aside one-half of the remaining surplus earnings, if any, cumulatively computed, in the project amortization reserve account. The licensee shall maintain the amounts established in the project amortization reserve account until further order of the Commission.

The specified reasonable rate of return used in computing amortization reserves shall be calculated annually based on current capital ratios developed from an average of 13 monthly balances of amounts properly included in the licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rate for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10-year constant

maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 204. Headwater Benefits. If the licensee's project will be directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement during the term of this original license (including extensions of that term by annual licenses), and if those headwater benefits were not previously assessed and reimbursed to the owner of the headwater improvement, the licensee shall reimburse the owner of the headwater improvement for those benefits, at such time as they are assessed, in the same manner as for benefits received during the term of this new license. The benefits will be assessed in accordance with Part 11, Subpart B, of the Commission's regulations.

Article 301. As-built Drawings. Within 90 days after completing construction of the facilities authorized by this license, the licensee shall file, for Commission approval, revised exhibits A, F, and G, as applicable, to describe and show those project facilities as built. The exhibits shall have sufficient detail to adequately delineate the location of project features relative to the project boundary. A courtesy copy shall be filed with the Commission's D2SI-Atlanta Regional Office, the Director, D2SI, and the Director, DHAC.

Article 401. Project Operation. Upon the effective date of the license, in addition to complying with condition number 5 of the water quality certification (Appendix A), the licensee shall operate the Morgan Falls Project with a maximum water level drawdown of no greater than 8 feet from the normal full pool elevation of 866.00 feet plant datum.⁶⁶

The project operations, including minimum flow releases, may be temporarily modified if required by operating emergencies beyond the control of the licensee, or for short periods in consultation with the Atlanta Regional Commission (Regional Commission), the Georgia Department of Natural Resources (Georgia DNR), the U.S. Army Corps of Engineers (Corps), and the U.S. Fish and Wildlife Service (FWS). If project operations are so modified, the licensee shall (a) notify the Commission, the Regional Commission, the Georgia DNR, the Corps, and the FWS as soon as possible, but no later than ten days after each such incident, and (b) include an incident report as described in Article 402.

⁶⁶ Plant datum is 12.39 feet higher than mean sea level datum.

Article 402. Project Operations and Flow Monitoring. Upon the effective date of the license, the licensee shall monitor project operations and flows, to ensure compliance with the operational requirements of this license, including water level drawdowns in Bull Sluice Lake, as required by Article 401, and condition number 5 of the water quality certification attached to this license. The monitoring shall provide a means to independently verify compliance with the project operations required by this license.

The licensee shall continue to monitor the U. S. Geological Survey's (USGS) gages on the Chattahoochee River near Norcross, Georgia (GA) (Gage #02335000); on the Chattahoochee River above Roswell, GA (Gage #02335450); and on Big Creek near Alpharetta, GA (Gage #02335700). In addition, the licensee shall: (a) monitor project generation and maintain requisite generation records; and (b) monitor headpond fluctuations and tailrace flows at the USGS gages on the Chattahoochee River at the Morgan Falls dam (Gage #02335810); and in the project tailrace (Gage #02335815).

The licensee shall report project operations (e.g., generation, water surface elevations, discharge, etc.) and flow data to the Commission and the Atlanta Regional Commission, the Georgia Department of Natural Resources, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers within 30 days of receiving a request. In addition, if there are any incidents where the operation of the project deviated from the operational requirements of this license, licensee shall file, with the Commission, a report of the incident within 10 days of the occurrence. Any incident report shall, to the extent possible, identify the cause, severity, and duration of the incident, and any observed or reported adverse environmental effects resulting from the incident. The incident report shall also include: (1) operational and flow data necessary to determine compliance with this article; (2) a description of any corrective measures implemented at the time of the occurrence and the measures implemented or proposed to ensure that similar incidents do not recur; and (3) comments or correspondence, if any, received from agencies, regarding the incident. Based on the report and the Commission's evaluation of the incident, the Commission reserves the right to require modifications to project facilities and operations to ensure future compliance.

Article 403. Reservation of Authority—Fishways. Authority is reserved to the Commission to require the licensee to construct, operate, and maintain, or to provide for the construction, operation, and maintenance of such fishways as may be prescribed by the Secretary of the Interior pursuant to section 18 of the Federal Power Act.

Article 404. Visitor Interpretation Program. Within 180 days of the effective date of the license, the licensee shall file for Commission approval, a final Visitor Interpretation Program for the Chattahoochee Nature Center's (Nature Center) Wetlands Boardwalk. The purpose of this program is to protect wetland resources and enhance the

recreational experience along the Nature Center's existing Wetlands Boardwalk within the project boundary.

The Visitor Interpretation Program shall include, but not be limited to:

- (1) a description of each element of the interpretive program including:
 - (a) all interpretive displays along the Wetlands Boardwalk within the project boundary;
 - (b) an educational brochure for self-guided interpretation of the resources occurring along the Wetlands Boardwalk within the project boundary. The information on the brochure shall provide a description of the wetland resources and identification of threats to wetland resources; and
 - (c) any other materials developed as part of the program.
- (2) identification of the parties responsible for implementing each element of the interpretive program, including the design, installation, and maintenance or replacement of displays, as well as the design, production, and distribution of brochures and other materials of the program; and
- (3) a schedule for the development and implementation of the program.

The licensee shall prepare the Visitor Interpretation Program after consultation with the Nature Center. The licensee shall include with the program documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the Nature Center, and specific descriptions of how the Nature Center's comments and recommendations are accommodated by the program. The licensee shall allow a minimum of 30 days for the Nature Center to comment and make recommendations before filing the program with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the program. The program shall not be implemented until the licensee is notified that the program is approved. Upon Commission approval, the licensee shall implement the program, including any changes required by the Commission.

Article 405. Invasive Aquatic Species Educational Signage. Within 90 days of the effective date of the license, the licensee shall acquire and install the “*Stop the Aquatic Hitchhikers!*” signage at the Azalea Park and Morgan Falls tailrace to educate project visitors on preventing the transport of nuisance aquatic vegetation and other nuisance species. The “*Stop the Aquatic Hitchhikers!*” signage shall be installed after consultation with the National Park Service and the U.S. Fish and Wildlife Service. The signs shall (a) measure 2 x 3 ft, (b) display the trademarked logo of the “*Stop Aquatic Hitchhikers!*” campaign, and (c) specify the procedures to be used in cleaning all recreational equipment before and after boat launching. If the “*Stop Aquatic Hitchhikers!*” campaign redesigns its educational signs, or if resource agencies develop alternative signage during the term of the license, the licensee shall, within 90 days of the change of signage, install the subsequent signage.

Article 406. Invasive Terrestrial Vegetation Management Program. Within 180 days of the effective date of the license, the licensee shall file, for Commission approval, a final Invasive Terrestrial Vegetation Management Program for the Morgan Falls Project. The purpose of this program is to (1) help manage invasive exotic terrestrial plants that occur on project lands owned by Georgia Power and to restore native plants on these lands, and (2) develop an invasive plant educational brochure. The purpose of this brochure is to provide a mechanism to inform landowners about invasive exotic terrestrial plants that occur on lands within, and adjacent to, the Morgan Falls Project boundary.

The Invasive Terrestrial Vegetation Management Program shall include, but not be limited to:

- (1) measures to manage invasive exotic terrestrial plants that occur on project lands owned by Georgia Power, including:
 - (a) identification of the species and areas targeted for control;
 - (b) a description of the mechanical and chemical treatment methods to be used on each of the species targeted for control;
 - (c) a provision to ensure that the herbicide applicator be licensed through the Georgia Department of Agriculture;
 - (d) a provision to monitor all treated areas for regrowth of native vegetation and to restore treated areas by planting native vegetation if these areas are not recolonized by native vegetation after invasive exotic vegetation is treated;

- (e) a schedule for the first treatments and a provision to submit a schedule for any follow-up treatments for each species targeted for control and any restoration plantings; and
- (2) the development of a brochure that shall include the following:
 - (a) identification of the invasive plant species that are known to occur on lands within, and adjacent to, the project boundary, and a description of effective treatment methods that can be used on each of the invasive plant species;
 - (b) a list of suggested native plant species that could be planted after invasive plants are treated and removed, and
 - (c) a provision to make the brochure available on the licensee's website.

The licensee shall prepare the final Invasive Terrestrial Vegetation Management Program after consultation with the National Park Service (Park Service) and the U.S. Fish and Wildlife Service (FWS). The licensee shall include with the program documentation of consultation, copies of comments and recommendations on the completed plan after it has been prepared and provided to the Park Service and the FWS, and specific descriptions of how the agencies' comments and recommendations are accommodated by the program. The licensee shall allow a minimum of 30 days for the agencies to comment and make recommendations before filing the program with the Commission. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the program. The program shall not be implemented until the licensee is notified that the program is approved. Upon Commission approval, the licensee shall implement the program, including any changes required by the Commission. If at any time during the term of license, the Park Service and the FWS deem it necessary to manage additional invasive plant species (species not already identified), and the Commission agrees with that determination, the Commission may require the licensee to manage the additional invasive plant species if there is a biologically safe method of control available.

Article 407. Bald Eagle Monitoring Report. Within one year of the effective date of the license, and each year thereafter, the licensee shall file, for Commission approval, an annual bald eagle monitoring report. The purpose of the report is to monitor for the presence of bald eagles in the project boundary, and implement management guidelines if bald eagles begin to reside within the project boundary. In conjunction with filing the

report with the Commission, the licensee shall also provide a copy of the report to U.S. Fish and Wildlife Service (FWS) and the Georgia Department of Natural Resources.

The report shall include, but not be limited to:

- (1) A description of the methods used to monitor for bald eagles and their nesting trees;
- (2) a description of any transient bald eagle occurrences within the project boundary; and
- (3) a description of the location of any bald eagles residing or nesting within the project boundary.

If any bald eagles are determined to be residing or nesting within the project boundary, the licensee shall file with the annual report a description of the management objectives and actions that will be implemented to protect the bald eagles. The licensee shall take into account the most current federal bald eagle management guidelines (FWS 1987, 2006, 2007) while developing the management objectives and actions.

Article 408. Recreation Facilities. Upon the effective date of the license, the licensee shall manage the existing canoe portage over the term of the license. Within one year of the effective date of the license, the licensee shall construct, and maintain over the term of the license, the shoreline angler platform and barrier-free access downstream of Morgan Falls dam. Prior to any construction, the licensee shall file, for Commission approval, the following:

- (1) the final design drawings of the shoreline angler platform and barrier-free access downstream of Morgan Falls dam;
- (2) measures for soil erosion and sedimentation control during the construction of the angler platform; and
- (3) a discussion of how the needs of the disabled were considered in the planning and design of the angler platform and barrier-free access.

The licensee shall prepare the final design drawings after consultation with the Georgia Department of Natural Resources (Georgia DNR). The licensee shall include with the design drawings documentation of consultation, copies of comments, recommendations from Georgia DNR on the design, and specific descriptions of how the entities' comments are accommodated. The licensee shall allow a minimum of 30 days

for the consulted entities to comment and make recommendations prior to filing the final design drawings with the Commission for approval. If the licensee does not adopt a recommendation, the filing shall include the licensee's reasons, based on project-specific information.

The Commission reserves the right to require changes to the filing. No ground-disturbing or land-clearing activities for the construction of the shoreline angler platform and barrier-free access shall begin until the licensee is notified by the Commission that the filing is approved. Upon approval, the licensee shall begin construction, and incorporate any changes required by the Commission. Any structure or facility constructed in accordance with this article shall be shown on the as-built drawings filed pursuant to Article 301 of this license.

Article 409. Programmatic Agreement and Historic Properties Management Plan. Upon the effective date of the license, the licensee shall implement the "Programmatic Agreement Between the Federal Energy Regulatory Commission and the Georgia State Historic Preservation Officer for Managing Historic Properties that May Be Affected by Issuance of a License to the Georgia Power Company for the Continued Operation of the Morgan Falls Hydroelectric Project in Fulton and Cobb Counties, Georgia (FERC No. 2237-013)," executed on January 15, 2008, and including but not limited to the *Historic Properties Management Plan for the Morgan Falls Hydroelectric Project (FERC #2237) Fulton and Cobb Counties, Georgia* (HPMP) for the project. In the event that the Programmatic Agreement is terminated, the licensee shall continue to implement the provisions of its approved HPMP. The Commission reserves the authority to require changes to the HPMP at any time during the term of the license. If the Programmatic Agreement is terminated, the licensee shall obtain approvals from the Commission and the Georgia State Historic Preservation Office where the HPMP calls upon the licensee to do so.

Article 410. Interpretive Signage. Within 180 days of the effective date of the license, the licensee shall install the Hightower Trail signage at the city of Roswell's (City) Azalea Park, and the Morgan Falls Project signage in the Morgan Falls tailrace area. The purpose of the signage is to inform the public of the significance of the Hightower Trail, which was used as an Indian trading and travel route, and the Morgan Falls Project, which has supplied energy to the region for over 100 years.

The licensee shall install the signage after consultation with the City and the Georgia State Historic Preservation Office. After installation, the licensee shall file with the Commission, documentation of consultation with the entities and installation of the signage.

Article 411. Use and Occupancy. (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and waters for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 water craft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancement. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the impoundment shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing

this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensee may convey easements or rights-of-way across, or leases of project lands for: (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project impoundment. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed. If no conveyance was made during the prior calendar year, the licensee shall so inform the Commission in writing no later than January 31 of each year.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 water craft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an approved report on recreational resources of an exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 60 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked exhibit G map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the

licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved report on recreational resources of an Exhibit E; or, if the project does not have an approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised exhibit G drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised exhibit G drawings would be filed for approval for other purposes.

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(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(G) The licensee shall serve copies of any Commission filing required by this order on any entity specified in the order to be consulted on matters relating to that filing. Proof of service on these entities must accompany the filing with the Commission.

(H) This order is final unless a request for rehearing is filed within 30 days from the date of its issuance, as provided in section 313(a) of the FPA. The filing of a request for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. The licensee's failure to file a request for rehearing shall constitute acceptance of this order.

J. Mark Robinson
Director
Office of Energy Projects

Project No. 2237-017

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Form L-1
(October, 1975)

**FEDERAL ENERGY REGULATORY COMMISSION
TERMS AND CONDITIONS OF LICENSE
FOR CONSTRUCTED MAJOR PROJECT AFFECTING
LANDS OF THE UNITED STATES**

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and

supervision of the Regional Engineer, Federal Energy Regulatory Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights or occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is

transferred to a new licensee or to a nonpower licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission any direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity

for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps,

beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: Provided, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. Timber on lands of the United State cut, used, or destroyed in the construction and maintenance of the project works, or in the clearing of said lands, shall be paid for, and the resulting slash and debris disposed of, in accordance with the requirements of the agency of the United States having jurisdiction over said lands. Payment for merchantable timber shall be at current stumpage rates, and payment for young growth timber below merchantable size shall be at current damage appraisal values. However, the agency of the United States having jurisdiction may sell or dispose of the merchantable timber to others than the Licensee: Provided, That timber

so sold or disposed of shall be cut and removed from the area prior to, or without undue interference with, clearing operations of the Licensee and in coordination with the Licensee's project construction schedules. Such sale or disposal to others shall not relieve the Licensee of responsibility for the clearing and disposal of all slash and debris from project lands.

Article 22. The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

Article 23. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 24. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 25. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the

license.

Article 26. In the construction and maintenance of the project, the location and standards of roads and trails on lands of the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 27. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 28. The Licensee shall make use of the Commission's guidelines and other recognized guidelines for treatment of transmission line rights-of-way, and shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission lines; shall cut and remove all dead or leaning trees which might fall in contact with the transmission lines; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 29. The Licensee shall cooperate with the United States in the disposal by the United States, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. sec. 601, et seq.), of mineral and vegetative materials from lands of the United States occupied by the project or any part thereof: Provided, That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the Licensee for the purposes of the license: Provided further, That in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

Article 30. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or

shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 31. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 32. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

APPENDIX A

Georgia Department of Natural Resources
Environmental Protection Division
Section 401 Water Quality Certification filed March 12, 2008
Terms and Conditions

Pursuant to Section 401 of the Federal Clean Water Act, the State of Georgia issues this certification to the Georgia Power Company, an applicant for a federal permit or license to conduct an activity in, on or adjacent to the waters of the State of Georgia.

The State of Georgia certifies that there is no applicable provision of Section 301; no limitation under Section 302; no standard under Section 306; and no standard under Section 307, for the applicant's activity. The State of Georgia certifies that the applicant's activity will comply with all applicable provisions of Section 303.

This certification is contingent upon the following conditions:

1. All work performed during construction will be done in a manner so as not to violate applicable water quality standards.
2. No oils, grease, materials or other pollutants will be discharged from the construction activities which reach public waters.
3. For land disturbing activities in the State mandated stream buffers, Georgia Power Company or their authorized agents shall submit an application for a Stream Buffer Variance to the Director of EPD as provided in the Georgia Erosion and Sedimentation Act of 1975, as amended, O.C.G.A. 12-7-6(b)(15).
4. For land disturbing activities applicable to Condition 3, mitigation shall be completed prior to final stabilization of permitted land disturbing activities on the project site.
5. Georgia Power Company shall provide a sufficient discharge from the project so as to meet the February 12, 2007 Statement of Policy between Georgia Power Company and the Atlanta Regional Commission (ARC). Should flow requirements be changed or altered during the life of the FERC permit, Georgia Power Company shall be subject to all such conditions in accordance with Article III of the Policy.

The FERC license reauthorizes operation of the project for a period of 40 years. The project provides for flow regulation of the Chattahoochee River, water quality waste load assimilation capacity, and hydropower electric generation. This certification shall remain in effect throughout the federally authorized licensing period. The Georgia Environmental Protection Division or successor agencies within the State of Georgia reserves the right to reopen and amend Section 401 Certification if new information regarding the present application is forthcoming; if significant material changes or operational changes are sought for the project; or for certain acts of *force majeure*.

This certification does not relieve the applicant of any obligation or responsibility for complying with the provisions of any other laws or regulations of other federal, state or local authorities.

It is your responsibility to submit this certification to the appropriate federal agency.

APPENDIX B**STATEMENT OF POLICY ISSUED BY
GEORGIA POWER COMPANY AND
THE ATLANTA REGIONAL COMMISSION
FOR METROPOLITAN ATLANTA AREA
WATER QUANTITY**

This Statement of Policy is issued this *12th* day of *February*, 20 *07* by Georgia Power Company (the "Company") and the Atlanta Regional Commission (the "Commission"), a governmental agency and instrumentality of the State of Georgia, acting as agent in behalf of the City of Atlanta, Georgia, DeKalb County, Georgia, the Cobb County-Marietta Water Authority and the Atlanta-Fulton County Water Resources Commission (sometimes hereinafter referred to as the Participants).

The parties recognize that water quantity in the Chattahoochee River between Buford Dam and Peachtree Creek (the "River") is projected to result at times in river flows insufficient to provide the minimum river flow rate established by the Environmental Protection Division of the Georgia Department of Natural Resources (not to exceed 750 cfs) in the Chattahoochee River immediately above the confluence thereof with Peachtree Creek, and below City of Atlanta's water works, which flow rate is periodically established by the Environmental Protection Division of the Georgia Department of Natural Resources as the basis for determining waste water discharge limits for meeting the water quality standards of the River.

The Company intends to use its best efforts, subject to the conditions set forth below, to operate its Morgan Falls Dam (the "project") on the River in such a fashion as to provide the minimum releases determined by the Commission as sufficient to meet minimum required river flow, not to exceed 750 cfs, immediately upstream from the confluence of the River with Peachtree Creek, and below City of Atlanta's water intake.

ARTICLE 1 – WATER SUPPLY AND WITHDRAWALS

- 1.1 Georgia Power will attempt to have water released from the Project for governmental and industrial uses during the term of this policy. It will be the responsibility of the Commission to coordinate the allocation of such water to the Participants withdrawing water along the River.
- 1.2 The Company will endeavor to provide a minimum release, during off peak power periods, of up to 1164 cfs from the Project, as required on a weekly basis by the Commission, within the limitations imposed herein.
- 1.3 The Company reserves the right to take measures as may be necessary in the operation of the Project to preserve life or property, to preserve the safety of the Project, or to satisfy Project purposes.
- 1.4 The Commission recognizes that this policy provides only for releases of water from the Project and that any water released will be raw water. The Company makes no representation with respect to the quality or availability of water and assumes no responsibilities therefore, or for treatment of the water withdrawn. The water levels along the River will be in part determined by river geometry which will not be preserved or controlled by the Company. Thus, this policy shall not be construed as giving the Commission any rights to have the water level maintained at any elevation at points along the River. The Commission further
- 1.5 In order for the Company to provide the Project releases adequate to meet the terms of this policy, the Commission agrees to continue to coordinate the water management system, acceptable to the Company, in cooperation with the various Participants, the Corps of Engineers, the Georgia State Environmental Protection Division and the Company. The water management system is described in Exhibit

A. This system may be modified by mutual agreement of the parties involved without affecting the Statement of Policy.

- 1.6. The Company's ability to provide minimum releases is expressly conditioned upon the following factors:
- (a) The continued availability of sufficient water storage in the Morgan Falls pond;
 - (b) Adequate inflows into the Project;
 - (c) Approvals of this agreement by all governmental bodies having jurisdiction thereof;
 - (d) The nonoccurrence of any uncontrollable force, defined herein as including any cause beyond the control of the Company, such as acts of God, acts of the public enemy, insurrections, riots, strikes, labor disputes, labor or material shortages, epidemics, fires, floods, storms, lightning, explosions, silting of the pond, earthquakes, droughts, insufficient inflow, breakdown of or damage to plants or machinery, interruptions to or contingencies of navigation, river freezeups, embargoes, orders or acts of civil or military authority (including without limitation local ordinances, state or federal statutes, or regulations or orders of any local, state or federal agency or court) or other events which wholly or partially prevent the Company from complying with Article 1.2 thereof.
 - (e) The nonoccurrence of any regulatory or judicial decision adversely affecting the Company which results from the Company's participation herein.
- 1.7 Upon learning of the occurrence of any of the conditions listed in Article 1.6 above, the Company shall notify the Commission and any other person or entity which the Company determines should be notified, and shall use its best efforts to cooperate with other entities to see that the adverse effects of such conditions are minimized.

ARTICLE II – NO CHARGE

- 2.1 As long as this policy remains in force, no charge shall be made by the Company to the Commission for the minimum releases from the Project.

ARTICLE III – TERM OF POLICY

- 3.1 This policy shall become effective on the effective date of a new license for the Project issued by the Federal Energy Regulatory Commission (FERC) and shall conclude on the expiration of such license, unless a revised Statement of Policy is negotiated and agreed upon by the Company and the Commission.

ARTICLE IV – TERMINATION OF POLICY

- 4.1 Although the parties intend for this policy to remain in effect for the period set forth above, each shall have the right to terminate this policy upon one (1) year written notice, except that the parties may jointly terminate this policy by executing a joint termination document in writing at any time.

ARTICLE V – RELEASE OF CLAIMS

- 5.1 The Commission, acting as agent, shall hold and save the Company, including its officers, agents, and employees, harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the release of water from the project hereunder and at the request of the Commission, so long as such releases are performed in a non-negligent manner.

GEORGIA POWER COMPANY

By: 
Douglas E. Jones

Its: Senior Vice President
Southern Company Generation

ATLANTA REGIONAL COMMISSION

Acting as agent for the City of Atlanta, Georgia, DeKalb County, Georgia, the Cobb
County-Marietta Water Authority, and the Atlanta-Fulton County Water Resources

Commission
By: 
Charles Krantler

By: 
Sam Olers

Its: Director

Its: Chair

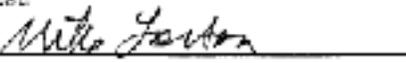
Attest:

Assistant Secretary

EXHIBIT A
WATER MANAGEMENT SYSTEM

1. **PURPOSE**

The purpose of this water management system is to provide the most efficient water management system practicable for providing water supply and water quality releases from Morgan Falls Dam. It is the goal of the system to minimize off peak demand release from Morgan Falls Dam whenever possible.

2. **RESPONSIBILITIES**

A. **Atlanta Regional Commission**

1. It will be the responsibility of the Commission to provide the Company with estimates of Chattahoochee River water withdrawals above the Project for upcoming weekends and weeks.
2. It will be the responsibility of the Commission to provide the Company with estimates of the inflow into the River from that portion of the drainage area between Buford Dam and Morgan Falls Dam for upcoming weekends and weeks. The methodology and accuracy of the prediction is the responsibility of the Commission.
3. It will be the responsibility of the Commission for determining the minimum required continuous release required at the Project for meeting water quantity needs as established by this Statement of Policy on that stretch of the River between the Project and the confluence with Peachtree Creek for upcoming weekends and weeks. The methodology used in determining the required minimum release shall be the responsibility of the Commission and shall take into account projections of water withdrawals and inflows on that portion of the River below the Project but above the confluence with Peachtree Creek, and the minimum flow requirement established by the Environmental Protection Division of the Georgia Department of Natural Resources.

4. It will be the responsibility of the Commission, through appropriate means, for calculating the amount of and ensuring the availability of releases from Buford Dam, for upcoming weekends and weeks, adequate to supply enough inflow into the Project so that the Company can meet its commitments under this policy. The scheduling of the releases from Buford Dam will be in accordance with Southeastern Power Administration contracts.

B. Georgia Power Company

1. The Company will attempt to operate the Project to maintain the minimum continuous release, within the limitations of this policy, determined by the Commission.

3. PROCEDURES

- A. The Commission will provide the Company with the information specified in 2.A.1, 2.A.2, 2.A.3, to a contact to be designated by the Company in writing to the Commission Executive Director, by 4:00 PM Friday of each week for the immediately following Saturday through Friday. The information shall be specified for each day of the period.
- B. The Commission shall update the Company as required during the week.

Document Content(s)

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