



# Department of Natural Resources

270 WASHINGTON ST., S.W.  
ATLANTA, GEORGIA 30334  
(404) 656-3500

50-424

J. Leonard Ledbetter

~~XXXXXXXXXXXX~~  
COMMISSIONER

September 28, 1984

Ms. Elinor Adensam, Chief  
Licensing Branch No. 4  
Division of Licensing  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dear Ms. Adensam:

This letter is in response to your September 12, 1984, request for comments regarding the electrical transmission line crossing of Ebenezer Creek by Georgia Power Company.

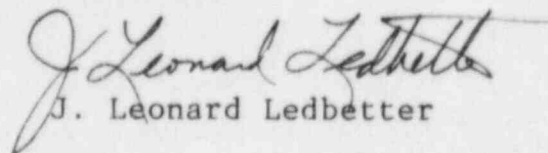
We have reviewed the proposal, and we agree that the line crossing will not have any adverse impact on the fish and wildlife resources.

The Georgia Scenic Rivers Act (Ga. L. 1969, p. 933 §1) (copy attached) only deals with the damming up of designated streams and the impeding of stream flows. Based on our knowledge of the project, it does not appear that the power line crossing will affect either of these conditions.

The only authority this Department has in regard to this project is this specific legislation and our responsibilities for protection of fish and wildlife resources. As a result, we cannot comment on any of the other questions raised in your letter.

If you need further information, please feel free to get in touch with us.

Sincerely,

  
J. Leonard Ledbetter

JLL:jmw

Attachment

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## RESEARCH REFERENCES

C.J.S. — 73 C.J.S. Public Administrative Bodies and Procedure, § 72.

### PART 2 GEORGIA SCENIC RIVER SYSTEM

#### 12-5-350. Short title.

This part shall be known and may be cited as the "Georgia Scenic Rivers Act of 1969." (Ga. L. 1969, p. 933, § 1.)

#### 12-5-351. Definitions.

As used in this part, the term:

(1) "Free-flowing," as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway.

(2) "River" means a flowing body of water, or a section, portion, or tributary thereof, and includes streams, creeks, branches, and small lakes.

(3) "Scenic easement" means an interest in land which limits the use of land along the shoreline of a scenic river for the purpose of protecting the scenic, recreational, or natural characteristics of the area.

(4) "Scenic river" means certain rivers or sections of rivers of the State of Georgia which have valuable scenic, recreational, or natural characteristics which should be preserved for the benefit and enjoyment of present and future generations. (Ga. L. 1969, p. 933, § 2.)

#### 12-5-352. Rivers comprising the Georgia Scenic River System.

(a) The Georgia Scenic River System shall be comprised of the following:

(1) That portion of the Jacks River contained within the Cohutta National Wilderness Area and located in Fannin and Murray counties, Georgia, which portion extends a length of approximately 16 miles;

(2) That portion of the Conasauga River located within the Cohutta National Wilderness Area and located in Fannin, Gilmer, and Murray counties, Georgia, which portion extends a length of approximately 17 miles;

(3) That portion of the Chattooga River and its West Fork which are now designated as part of the Chattooga National Wild and Scenic River and located in Rabun County, Georgia, which portion extends a length of approximately 34 miles; and

(4) That portion of Ebenezer Creek from Long Bridge on County Road S 393 to the Savannah River and located in Effingham County, Georgia, which portion extends a length of approximately 7 miles.

(b) The Georgia Scenic River System shall also be comprised of any river or section of a river designated as a scenic river by Act or resolution of the General Assembly. (Ga. L. 1969, p. 933, § 3; Ga. L. 1978, p. 2207, § 1; Ga. L. 1981, p. 459, § 1.)

**Law reviews.** — For article surveying 1977 through May 1978, see 30 Mercer L. Georgia cases dealing with environment, Rev. 75 (1978). natural resources, and land use from June

#### 12-5-353. Duties of department as to scenic rivers.

(a) The Department of Natural Resources shall study and from time to time recommend to the Governor and General Assembly rivers or sections of rivers to be considered for designation as scenic rivers. Each recommendation shall be accompanied by a report showing the proposed area and its classification, the characteristics which qualify the river or section of river for designation as a scenic river, ownership and use of land in the area, the state agency which should administer the area, and the estimated costs of acquiring fee title and scenic easements and of administering the area as a scenic river. The department may conduct such studies in cooperation with appropriate agencies of the State of Georgia and the United States and may apply for and receive funds therefor from the Land and Water Conservation Fund and other federal sources, provided that such studies must be first approved by the person or persons appointed by the Governor to serve as a liaison with certain federal agencies under the terms of Public Law 90-542 (82 Stat. 906), approved October 2, 1968, such law having been designated the "Wild and Scenic Rivers Act."

(b) The department shall proceed to make a study of each of the following rivers and make a report of its findings and recommendations to the Governor and the General Assembly:

(1) The Suwanee River from its source in the Okefenokee Swamp to the point where it flows out of the State of Georgia; and

(2) That section of the Chattooga River within the State of Georgia.

(c) Each scenic river, together with the land lying within its authorized boundary, as established by the General Assembly, shall be classified as one of the following:

(1) **NATURAL RIVER AREA.** This is a free-flowing river or section of river generally inaccessible except by trail, with the shoreline undeveloped and unused;

(2) **PASTORAL RIVER AREA.** This is a free-flowing river or section of river accessible by roads, with the shoreline mostly undeveloped and unused; or

(3) **RECREATIONAL RIVER AREA.** This is a free-flowing river or section of river accessible by roads, with limited development along the shoreline. (Ga. L. 1969, p. 933, § 4; Ga. L. 1972, p. 1015, § 1511.)

**Cross references.** — As to provision in deeds for easements to preserve land or water areas in natural or scenic condition, see § 44-10-1 et seq.

**U.S. Code.** — The federal Wild and Scenic Rivers Act, as amended, referred to in this section, is codified at 16 U.S.C.A. § 1271 et seq.

**12-5-354. Construction, operation, etc., of dams, etc., on scenic rivers; acquisition of land within boundaries of scenic rivers.**

After designation of any river or section of a river as a scenic river by the General Assembly pursuant to Code Section 12-5-352:

(1) No dam, reservoir, or other structure impeding the natural flow of the waterway shall be constructed, operated, or maintained in such river or section of river so designated as a scenic river, unless specifically authorized by an Act of the General Assembly;

(2) The department may acquire by purchase, gift, grant, bequest, devise, lease, or otherwise fee title or any lesser interest in the land lying within the authorized boundary of such river or section of river designated as a scenic river. Any interest in land acquired by the department pursuant to this Code section shall be transferred to such governmental agency as the General Assembly may by Act direct. (Ga. L. 1969, p. 933, § 5.)

**Acquisition of title to land limited.** — The ability of the council (now Department of Natural Resources) to acquire title to land is limited by: (1) area - land lying within a certain authorized boundary of the designated scenic river; and (2) time - only after the river has been designated by the General Assembly as scenic. 1970 Op. Att'y Gen. No. 70-6.

**Transfer of title to acquired land**

**required.** — The department may acquire the title to land lying within the authorized boundaries of a river or section of river previously designated by the General Assembly as a scenic river, but upon acquisition, the title must be transferred to another state agency designated by the General Assembly. 1970 Op. Att'y Gen. No. 70-6.

**RESEARCH REFERENCES**

**Am. Jur. 2d.** — 1 Am. Jur. 2d, Administrative Law, § 178.

**C.J.S.** — 73 C.J.S., Public Administrative Bodies and Procedure, § 72.

**PART 3**

**DAM SAFETY**

**Law reviews.** — For survey of Georgia cases dealing with environment, natural resources, and land use from June 1977 through May 1978, see 30 Mercer L. Rev. 75 (1978).

**RESEARCH REFERENCES**

**ALR.** — Applicability of rule of strict or absolute liability to overflow or escape of water caused by dam failure, 51 ALR3d 965.

**12-5-370. Short title.**

This part shall be known and may be cited as the "Georgia Safe Dams Act of 1978." (Ga. L. 1978, p. 795, § 1.)

**12-5-371. Declaration of purpose.**

It is the purpose of this part to provide for the inspection and permitting of certain dams in order to protect the health, safety, and welfare of all the citizens of the state by reducing the risk of failure of such dams. The General Assembly finds and declares that the inspection and permitting of certain dams is properly a matter for regulation under the police powers of the state. (Ga. L. 1978, p. 795, § 2.)