

Andrew A. Labay, FP-C

FISHERIES BIOLOGIST/PROJECT MANAGER

Andrew Labay is a certified fisheries professional with more than 21 years of experience in environmental management. For the past 13 years, the majority of his work has focused on the Clean Water Act Section 316(b) compliance for electric utilities. He has an unprecedented level of experience with the rule in the region. He led his work under the Phase I&II rules, assisting 14 electric utilities in Texas and surrounding states that involved on-the-ground work at 26 facilities. Mr. Labay’s efforts included successful development of dozens of compliance documents, most of which were managed concurrently during the modest life of the rule. After the rule remand, and in the absence of Federal guidance, he worked with the Texas Commission on Environmental Quality (TCEQ) and various clients to develop a successful permitting path. The documents that supported this path were known as Supplemental Information Documents (SID).

Mr. Labay also has extensive experience in other fields of natural resource management, including FERC hydropower licensing; management of cultural and historic resource investigations to meet Section 106 requirements; development of NEPA documents; T&E species issues; TPDES permitting, section 316(a) compliance; oil spill and pollution response; Aquatic Resource Relocation plans; mussel identification and relocation; aquatic weed management; and fisheries management plans.

In the past, Mr. Labay worked as a fisheries biologist for the Texas Parks and Wildlife Department (TPWD) for more than nine years. His ongoing relationship with the TPWD and the TCEQ has been instrumental in resolving natural resource management issues. His approach of maintaining transparency has been important in helping agencies understand the issues and in maintaining trust among involved parties.

In 2011, Mr. Labay was appointed as a director of the Colorado County Groundwater Conservation District. His responsibilities involve acting on matters related to the District’s groundwater rules, including permitting of exempt, historic-use, and operating wells and addressing issues related to groundwater quality/quantity and groundwater planning.

Experience Prior to joining FNI:

Section 316(b) Compliance, Multiple Clients and Facilities – Program Manager. The Clean Water Act Section 316(b) rules for existing facilities require electric utilities to employ best technology available for reducing adverse environmental impacts (AEI) at cooling-water intake structures. Mr. Labay’s role was to manage or assist with compliance under the Phase II rules for 15 electric utilities that included more than 40 facilities. This included development of PICs and early development of CDSs; evaluation of fish-protection measures; development of impingement and entrainment studies; field data collection; fisheries economic analysis; analysis of the potential for AEI; successfully staffing/managing numerous concurrent projects; and agency coordination.

Since the Phase II rule was remanded, Mr. Labay participated in the development of a process with the TCEQ that allows for issuance of permits using recent monitoring data and preliminary analysis of AEI. The process involves development of a SID that described the history of data collection, review of relevant technologies, and whether existing technologies constitute BTA for minimizing AEI. The SID, to date, has been sufficient for permit



Experience

21 years

Education

M.S., Aquatic Biology,
Southwest Texas State
University

B.S., Aquatic Biology,
Southwest Texas State
University

Certifications

Scientific Research
Permit (SPR-1006-756)

Certified Fisheries
Professional (FP-C),
American Fisheries
Society, #2584

Texas Department of
Agriculture Licensed
Commercial Applicator
(Aquatics), TDA
License #0487821

TxDOT Precerts

ESN #10630

2.6.1 - Protected
Species Determination
(Habitat)

2.6.3 - Biological
Surveys

issuance. However, permit language generally requires submittal of IM&E data and related studies within 6 months of permit issuance.

Livingston Dam Hydroelectric Project FERC Licensing, East Texas Electric Cooperative – This project involved managing various project components of the alternative licensing process, including: preparation of the pre-application document; an Environmental Assessment to meet a National Park Service property conversion requirement; archaeological investigations Under Section 106 to address the State Historical Commission concerns and development of the Historic Properties Management Plan; Avian Protection Plan; Recreation Management Plan; wetlands and cultural resource investigations of the project transmission line; participation in public scoping meetings; and development of a post-startup fisheries monitoring plan. Technical work for this study included deployment of water quality meters in the reservoir to characterize spatial and temporal water quality to support a water-quality model (CE-QUAL-W2) for project impact analysis; monitoring of fish movement using hydroacoustic sonar imaging (DIDSON); field studies of fish communities in the reservoir and the Trinity River; benthic macroinvertebrate sampling, including freshwater mussels; sampling to identify the distribution of American Eel downstream of the dam; and Paddlefish (state-listed threatened species) surveys, and working with the agencies to resolve significant fisheries issues associated with the diversion of reservoir water through the facility, and evaluation of recreational use within the project area.

Decker Creek Power Station Entrainment Study, Austin Energy – Mr. Labay led development of the entrainment characterization study at Austin Energy’s Decker Creek Power Station to evaluate whether entrainment mortality was a significant issue for the client, which would help aid in long-term compliance planning. The entrainment characterization study was submitted to TCEQ for review, providing all necessary sampling gear, and management of the field data collection effort.

Handley Generating Station Impingement Mortality-Reduction Credit, Exelon – Under the recent Phase II rule, the design, location, and operation of a facility’s CWIS could be considered for reducing impingement mortality (IM) in relation to the calculation baseline. Handley Generating Station in Arlington, Texas, withdraws cooling water from near the bottom at the rear of a long intake canal. Biological activity was believed to be low in this area resulting in significantly lower IM than the calculation baseline. Mr. Labay’s role was to design and conduct a field study to quantify the potential credit associated with the existing CWIS design and location. Pelagic fish communities were quantified using a paired-frame trawl at the approximate location of cooling water withdrawal and among other areas of the source waterbody. The sampling was conducted seasonally for one year. Results found that the use of the deep-water intake provided significant IM-reduction benefits that could be used towards the numeric reduction criteria. A report and recommendations were developed for Exelon, but the rule was remanded shortly after the project was completed.

Facility Grouping Study for 316(b) Compliance and Impingement Monitoring Study, Luminant – Luminant owns and operates 18 facilities that are subject to the Section 316(b) Phase II rules. TCEQ established a biweekly impingement sample frequency over the course of one year. Many of the facilities are considered peaking plants, which would have made biweekly sampling difficult or impossible and the cost of sampling 18 facilities unreasonable. As allowed under the Phase II rule, Luminant elected to use data collected from three base-loaded facilities to estimate IM for the remainder of their fleet. To take this approach, TCEQ required Luminant to demonstrate that sampled facilities were representative of unsampled facilities. Mr. Labay employed the Texas Parks and Wildlife Department routine monitoring data to perform statistical comparisons among reservoir fish communities and habitats. In addition, the location and configuration of the cooling water intake structures was also taken into consideration. Results of the study found that most reservoir communities were similar, generally allowing representation by CWIS design. Finally, an approach was developed for estimating IM based on facility flow and community similarity. This approach resulted in significant cost savings and the estimates were later used to facilitate TPDES permit renewals after the rule was suspended in 2007.

Mr. Labay also worked with Luminant to monitor impingement at their three base-loaded facilities (Big Brown and Monticello steam electric stations and Comanche Peak Nuclear Power Plant). He assisted Luminant and EPRI with PIC development and led the sampling effort. Sampling was conducted on a biweekly basis over the course of one year. Mr. Labay's role was also to manage the development of the IM Characterization Study reports, including development of the reports for the non-sampled facilities.

Assessment of Metals in Fish Tissue, AEP and Other Clients – Mr. Labay has managed and conducted a number of projects involving assessment of metals, principally mercury and selenium, in fish tissue. His previous employer was contracted with AEP in 2010 to collect largemouth bass for selenium tissue analysis at Welsh and Brandy Branch reservoirs. Mr. Labay led the effort, collecting fish through boat electrofishing, procurement of tissue samples for laboratory analysis, and development of reports to meet TPDES permit requirements. Other work involved assisting EPA with mercury data collection for the development of the interstate mercury requirements in 2011-2012. Mr. Labay also conducted similar studies for other electric utilities such as City Public Service Energy's Braunig and Calaveras reservoirs (2001 and 2009), Luminant's Martin Lake and Twin Oak reservoirs (2007 and 2010), and American National Power's Coletto Creek Reservoir (2009-present).

Use Attainability Analysis and Water Quality Standards Revision for Unnamed Tributary of East Cache Creek, Lawton, Oklahoma – The Oklahoma Water Quality Standard for dissolved solids in an unnamed tributary of East Cache Creek was not reflective of normal conditions in the stream. Consequently, discharges from AEP's Comanche Power Station's cooling pond periodically exceeded dissolved solids criteria designed to protect agricultural uses. The project involved extensive agency coordination, alternatives evaluations (including pipeline routing of the cooling pond water to a different stream), research of other western Oklahoma streams with similar dissolved solids issues, water quality monitoring, and aquatic life inventories. Mr. Labay's role also included managing data collection, agency coordination, fish, benthic macroinvertebrate, and water quality sampling, reporting, as well as quality assurance oversight.

Sabine-Neches Waterway Improvement Project and Clear Creek Flood Reduction Project, USACE – Mr. Labay served as the assistant project manager for the development of the Environmental Impact Statements for these projects. This involved successful development of the baseline sections, coordinating Interagency Coordination Teams, development of the Habitat Evaluation Process model for the Clear Creek project, assisting with public scoping meetings, and document management.