



SOUTHERN  
LEGISLATIVE  
CONFERENCE  
OF  
THE COUNCIL  
OF STATE  
GOVERNMENTS

© Copyright December 2015

# A RIVER RUNS THROUGH IT AN UPDATE ON THE TRI-STATE WATER WARS

by Anne Roberts Brody, Policy Analyst

Photo courtesy of Eric Atkins via flickr Creative Commons License

## Introduction

Throughout the history of the United States, water has been the key to determining settlement patterns and development opportunities. It is migratory in nature and often crosses many boundaries, a characteristic that has generated ownership disputes and countless conflicts. Every state in the contiguous United States shares ground or surface water resources with another state, and almost every major city is located near a river or body of water.

Water resource scarcity can affect many sectors of a state’s economy as well as the region’s natural ecosystems. The Southern United States, characterized by a network of major rivers and tributaries, and generally abundant precipitation, has enjoyed a generous water supply. Consequently, the region has not experienced the water disputes that have plagued the Western United States. However, development pressure, changes in precipitation patterns, and transitioning priorities and consumption levels have caused a shift in these circumstances. When water shortages do arise, they often can cause interstate conflicts. Perhaps one of the most widely reported and longest running of these interstate disputes in the Southern region involves Alabama, Florida, and Georgia, known as the “tri-state water wars.” The tri-state water wars have spanned 25 years and center on water resource allocation in the Alabama-Coosa-Tallapoosa (ACT) and

the Apalachicola-Chattahoochee-Flint (ACF) River Basins. Recognizing the importance of this dispute and the impact the resolution will have on the states involved, the issue has remained relevant to the ongoing policy work of the Southern Office of The Council of State Governments, the Southern Legislative Conference (SLC). This third review of the issue advances the developments and actions that have occurred since SLC last reported on the conflict in 2010. Additionally, it should be noted that The Council of State Government’s Center for Interstate Compacts has more than 75 years of experience in promoting multi-state problem solving and advocating for the role of states in determining their respective futures.

This *SLC Issue Alert* serves as an update to the 2010 *SLC Regional Resource, Water Allocation and Management: Southern States Outlook* and the earlier, 2000 *SLC Regional Resource, The War Over Water* and examines developments up to December 14, 2015.

## Water Apportionment and Dispute Resolution

Differing climates, precipitation, and settlement patterns have resulted in distinct water apportionment models in the Eastern and Western United States. Water rights in the West are characterized by a practice of prior apportionment. In its most basic sense, prior apportionment models grant priority water rights to those with the most

SERVING THE SOUTH

THE SOUTHERN OFFICE OF THE COUNCIL OF STATE GOVERNMENTS  
P.O. Box 98129 | Atlanta, Georgia 30359  
ph: 404/633-1866 | fx: 404/633-4896 | [www.slcatlanta.org](http://www.slcatlanta.org)

senior claim. Alternatively, a “reasonable use” form of the English practice of riparian rights characterizes water rights in the Eastern half of the United States.<sup>1,A</sup>

Traditionally, water disputes in the United States have been solved using one (or more) of four mechanisms: (1) Congressional intervention into interstate commerce between the states; (2) interstate compacts approved by Congress; (3) the United States Supreme Court’s original jurisdiction<sup>B</sup> to resolve disputes between states; and (4) litigation under federal laws, which apply to the states, such as the Administrative Procedure Act.

To date, Alabama, Florida and Georgia have attempted to resolve the tri-state dispute using all available avenues. The conflict began with federal litigation and, when the ACT/ACF Interstate Compact process expired, the states revived those proceedings. More recently, Florida has looked to the United States Supreme Court to exercise its original jurisdiction in the conflict; Alabama and Georgia each have engaged the United States Army Corps of Engineers (Corps) in federal litigation, and congressional leaders in Alabama and Florida have sought to influence the conflict through congressional intervention.

## Origins of the Tri-State Water Wars

Since 1990, Alabama, Florida, and Georgia have been locked in a dispute over the water from two river basins: the ACT and the ACF. Alabama and Florida assert that Georgia has drawn more than its share from the rivers, posing a threat to ecological systems and harming the livelihoods of their residents. Following a severe regional drought, Alabama filed suit in federal court in 1990 to prevent the Corps from increasing reservoir storage in the ACF and ACT River Basins and from entering into storage contracts

---

<sup>A</sup> The riparian doctrine states that water belongs to the person whose land borders a body of water. Others permit riparian owners to make reasonable use of this water provided it does not interfere with the reasonable use of this water with riparian rights.

<sup>B</sup> The Supreme Court’s original and exclusive jurisdiction over all controversies between two or more states means that it is the only court to hear a case. This is separate from the Court’s appellate jurisdiction over lower court rulings.

with water utilities in the Atlanta metropolitan area. Subsequently, Florida and Georgia joined the legal battle against the Corps, with the former seeking to protect its interests in the economically and ecologically critical<sup>C</sup> Apalachicola Bay.

Before the dispute further escalated, the governors of all three states and the Corps entered into an agreement on January 3, 1992, suspending legal action and compelling the parties to support a comprehensive study of the current and future water requirements of the three states, freezing water usage levels, and calling for the states to negotiate and cooperate.<sup>2</sup> The study, which was completed in 1997, led to the creation and ratification of interstate compacts for the ACT and ACF River Basins.<sup>3</sup> Following numerous extensions, the ACT and ACF River Basin Compacts expired in 2003 and 2004, respectively. When the Compacts expired, the previous dormant proceedings over water resources in both basins were revived.

Following is an overview of the major developments in the tri-state water wars since the 2010 update by the SLC.

## Apalachicola-Chattahoochee-Flint River Basin Update

### Original Litigation in the ACF River Basin

An important turning point in the pre-existing litigation over water resources in the ACF River Basin came in 2011, when the United States Court of Appeals for the Eleventh Circuit reversed and vacated a 2009 District Court ruling from the Middle District of Florida.<sup>D</sup> The Eleventh Circuit held that the District Court lacked jurisdiction over claims made by Alabama, Southeastern Federal Power Customers, and Apalachicola because they did not challenge final agency action by the Corps as required by the Admin-

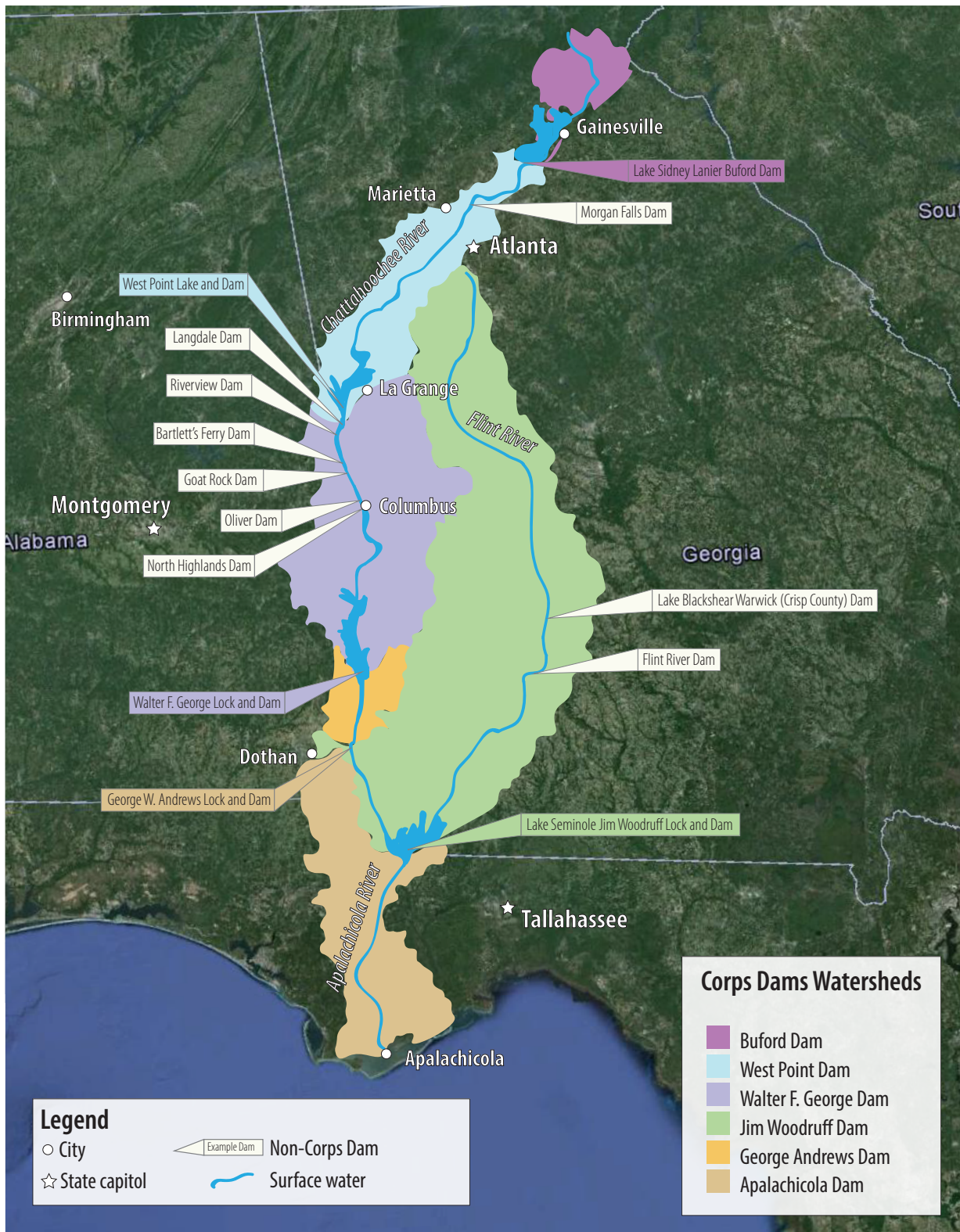
---

<sup>C</sup> The Apalachicola region provides habitat for more than 100 species that the federal government and the state of Florida have designated as endangered, threatened, or species of concern.

<sup>D</sup> In the 2009 ruling, the District Court held that water supply was not an authorized purpose of Lake Lanier and that the Corps had exceeded its authority in its reallocation of storage to accommodate Georgia’s water supply withdrawals.

Figure 1

Apalachicola, Chattahoochee and Flint Rivers Basin Map



Map based on a US Army Corps of Engineers Mobile District Draft Environmental Impact Statement on the Update of the Water Control Manual for the Apalachicola-Chattahoochee-Flint River Basin, released October 2015.

**June 28, 2011**

The Eleventh Circuit reverses the Middle District Court of Florida's decision.

**June 25, 2012**

The United States Supreme Court denies Alabama and Florida's request to review the Eleventh Circuit's assertion that water supply is an authorized purpose of Lake Lanier.

**November 3, 2014**

The United States Supreme Court grants Florida's motion.

**June 25, 2012**

As directed by the Eleventh Circuit, the Corps issues a legal opinion concluding that it is authorized to grant Georgia's entire water supply request.

**October 2013**

Florida submits a request to the United States Supreme Court for permission to file a lawsuit against Georgia, requesting "equitable apportionment" of the waters of the ACF River Basin.

**November 19, 2014**

The United States Supreme Court appoints Ralph Lancaster as Special Master.

istrative Procedure Act.<sup>4</sup> The Eleventh Circuit found that Congress, in the River and Harbor Act of 1946, had unambiguously provided that the Buford Dam Project<sup>E</sup> would be operated to accommodate downstream water supply demands and, therefore, allowed an allocation of storage in Lake Lanier for that purpose.<sup>5</sup> The Corps was given one year (until June 2012) to arrive at a well-reasoned, definitive, and final judgment as to its authority to reallocate storage in Lake Lanier to water supply.<sup>6</sup> The United States Supreme Court declined a request from Alabama and Florida to review the Eleventh Circuit ruling that water supply is an authorized purpose of Lake Lanier. By declining the states' request, the Supreme Court effectively affirmed the Eleventh Circuit ruling, putting an end to the litigation over the ACF River Basin.<sup>7</sup>

<sup>E</sup> The Buford Dam, created by the Buford Dam project, is the northernmost dam in the ACF River Basin. Lying north of the city of Atlanta, the dam forms Lake (Sidney) Lanier. It is one of five federal dams in the ACF River Basin, four of which are located on the Chattahoochee River in Georgia. The Corps operates the system of dams in the ACF River Basin pursuant to a Master Water Control Manual governing all the dams and separate reservoir regulation manuals for each individual dam.

In compliance with the Eleventh Circuit ruling, the Corps issued a legal opinion on June 25, 2012, concluding that it is authorized to grant Georgia's entire water supply request, which would allow withdrawals from Lake Lanier and the Chattahoochee River of 705 million gallons per day (mgd).<sup>8</sup> However, the Corps did not decide to what extent it would allocate storage to water supply when balancing that demand against hydropower generation, navigation, and other authorized purposes.

### A New Round of Litigation Begins

In October of 2013, Florida filed a motion with the United States Supreme Court seeking permission to bring suit against Georgia, requesting an "equitable apportionment" of the waters of the ACF River Basin. In its request, Florida asked the Court to cap Georgia's overall depletive water uses at 1992 levels.<sup>F</sup> On

<sup>F</sup> In effect, Florida has asked the United States Supreme Court to limit Georgia's overall depletive levels to those existing at the time of the 1992 agreement. At the time the agreement was struck, the Atlanta metropolitan area's withdrawals from Lake Lanier and the Chattahoochee River were approximately

**February 2, 2015**  
The United States of America files its intent to participate in the case as an *amicus curiae*.

**April 2, 2015**  
Florida and Georgia file a joint motion for confidentiality and inadmissibility.

**June 9, 2015**  
The governors of Florida and Georgia, along with key staff members, hold an in-person meeting to discuss settlement.

**October 2, 2015**  
The Corps releases a draft Master Water Control Manual and Environmental Impact Statement for the ACF River Basin.

**February 16, 2015**  
Georgia files a motion to dismiss for failure to join a required party.

**April 13, 2015**  
The joint motion for confidentiality and inadmissibility of settlement negotiation is granted.

**June 19, 2015**  
Georgia's motion to dismiss is denied.

November 3, 2014, the United States Supreme Court granted Florida's request. This began a new round of litigation in the ACF River Basin, *State of Florida v. State of Georgia*.

As is common in original jurisdiction cases, on November 19, 2014, the Court appointed a Special Master to direct and oversee the proceedings. The Special Master, Ralph Lancaster, previously has been appointed by the Court on three occasions to oversee interstate disputes, including a previous water allocation dispute between Maryland and Virginia. Once all arguments have been heard by the Special Master, a recommendation to the Court will be made.<sup>6</sup> Notably,

275 mgd. Today, the region uses approximately 375 mgd, despite a population that has nearly doubled.

<sup>6</sup> The Special Master's recommendations are not binding. Lawyers from both sides may file briefs challenging the Special Master's findings and conclusions. The United States Supreme Court must decide whether to accept the views of the Special Master or to hear arguments over the disagreements of the Special Master's report, but an ultimate ruling is made by the Court.

on at least 13 recorded occasions,<sup>h</sup> the Special Master has urged both states to pursue a settlement, citing the high cost of litigation and likelihood that neither state will accept the recommendation. During a February 2015 conference call, the Special Master urged settlement because "both states will have spent millions and perhaps even billions of dollars to obtain a result which neither one wants."<sup>9</sup>

Although this lawsuit is a new battle in the ongoing tri-state water wars, as of December 14, 2015, Georgia and Florida are the only parties to this particular case. Because of the federal government's interest in the potential effects of the litigation on the Corps' efforts to complete its update to the Master Water Control Manual for the ACF River Basin, the United States is

<sup>h</sup> Special Master Ralph Lancaster made these statements during teleconferences on December 1, 2014; December 15, 2015; February 10, 2015; March 13, 2015; April 7, 2015; June 9, 2015; July 13, 2015; September 8, 2015; September 29, 2015; and on November 10, 2015. He also urged both parties to settle in Case Management Order No. 2 on December 19, 2014; and during oral arguments held in Washington, D.C. on June 2, 2015.

participating in an *amicus curiae* capacity.<sup>10</sup> Although it is an interested party, the United States has not waived its executive privilege and is not an intervenor in the case. The Special Master requested that Georgia and Florida submit briefs addressing whether Alabama was a required or indispensable party that should be joined under the Federal Rules of Civil Procedure. In addition to Georgia and Florida's briefs on the topic, the United States and Alabama each submitted an amicus brief on the matter. All agreed that Alabama was neither required, nor indispensable, and should not be joined. The Special Master concurred.<sup>11</sup>

Because the United States' declined to join, on February 16, 2015, Georgia filed a motion to dismiss for failure to join a required party. In the motion, Georgia argued that the federal government has imposed a "highly regulated system over much of the [ACF River] Basin," including a series of dams.<sup>12</sup> Specifically, the Corps operates the Jim Woodruff Dam at the headwater of the Apalachicola River through which water from the Flint and Chattahoochee Rivers must pass before entering Florida. Georgia argued that the Corps' control over these dams makes the United States a required party to the litigation.<sup>13</sup> Citing *Arizona v. California* and *Texas v. New Mexico*, Georgia argued that, as in prior equitable apportionment cases in which the United States declined to intervene, notwithstanding intertwined federal obligations with regard to the waterway in question, the case must be dismissed.<sup>14</sup> The Special Master denied Georgia's motion on June 19, 2015, concluding that Georgia had failed to carry its burden of proof because it had not submitted any evidence supporting its claim.<sup>15</sup> As of December 14, 2015, the litigation is ongoing.

## Possible ACF River Basin Settlement

As previously noted, Special Master Ralph Lancaster repeatedly has urged Georgia and Florida to settle their dispute out of court or to seek mediation. To that end, in April 2015, Florida and Georgia filed and were granted a joint motion for confidentiality and inadmissibility by the Special Master. In their motion, both states requested that "the Special Master enter an order declaring that any and all settlement negotiations commenced and conducted between and among the states of Florida and Georgia, including related negotiations, discussions or communications with any other agency, party, individual or entity as necessary and appropriate, as well as any and all documents, data or other materials prepared in anticipation of or exchanged in the course of such negotiations, and any and all statements made during such negotiations, are and shall be kept confidential and inadmissible, and not subject to any disclosure absent an order of the Special Master or the Supreme Court of the United States."<sup>16</sup> This means that any confidential information exchanged between Georgia and Florida under the auspices of mediation and/or settlement negotiations cannot be entered as evidence in the ongoing litigation, shared with outside observers, or reported to the media.

The joint motion noted that the governors of both states have exchanged correspondence regarding the conduct of discussions and negotiations for exploring ways to reach an amicable resolution to the dispute and each has directed their respective staffs to coordinate efforts. The states contended that an order of confidentiality and inadmissibility would encourage

### Master Water Control Manual and Environmental Impact Statement

On October 2, 2015, the Corps released the long-expected draft Master Water Control Manual and Environmental Impact Statement for the ACF River Basin. The proposed update currently provides for releases from the Buford Dam to satisfy Georgia's anticipated need of 408 mgd from the Chattahoochee River for the Atlanta metropolitan area in 2040; reallocates storage in Lake Lanier of 189,497 acrefeet to satisfy a portion of Georgia's 2040 need; and supports average annual water supply withdrawals of up to 165 mgd.<sup>20</sup> Public comments were due December 1, 2015.

and facilitate proposals necessary to conduct settlement negotiations and would discourage improper dissemination of the information.<sup>17</sup>

On June 9, 2015, the governors of Georgia and Florida, along with key staff members from each state, met to discuss settlement possibilities. A status report filed by Georgia on July 9, 2015, asserts that the state “intends to continue an open dialogue with Florida in the hopes of reaching a resolution of this dispute.” However, the future of a settlement remains uncertain. In a November status report filed by Georgia, the state laments that settlement discussions “have not advanced and there has been no material progress on settlement since June.”<sup>18</sup> The state suggests that engaging a mutually acceptable mediator able to create a framework for formal in-person discussions and periodic exchanges of information specifically directed to settlement may be the best course of action.<sup>19</sup> During a teleconference on November 10, 2015, legal counsel representing Florida welcomed the prospect of mediation.

## Alabama-Coosa-Tallapoosa River Basin Update

### Original Litigation in the ACT River Basin

On July 3, 2012, the U.S. District Court for the Northern District of Alabama dismissed nine of Alabama’s 10 original claims with prejudice for lack of jurisdiction because the state failed to address final agency action. Alabama’s remaining claim, which was based on final agency action, challenged a permit authorizing the construction of the Hickory Log Creek Reservoir. Because the Reservoir already had been completed, the parties requested that the Court dismiss the remaining claim with prejudice. On October 23, 2012, the U.S. District Court for the Northern District of Alabama dismissed the claim, pursuant to the agreement of all parties. Twenty-two years after it was first filed, this concluded the original litigation over water allocation in the ACT River Basin.

### A New Round of Litigation Begins

Previously, in 2007, the Corps provided public notice of their intent to prepare an update of the water

## Congressional Intervention

U.S. Senators from Florida and Alabama have sought to conclude disputes over water allocation in the ACF and ACT River Basins. In 2013, Florida’s congressional delegation, led by Senator Nelson, attempted to add language to the Water Resources Development Act of 2013 that would have required the Corps to operate with the needs of the Apalachicola Bay in mind. However, the bill passed the Senate without the new language and ultimately failed to pass in the House.<sup>27</sup> In May 2015, Senator Shelby of Alabama inserted language into a Senate appropriations bill that would block the Corps from reallocating water flows in the ACT River Basin until the governors of Georgia and Alabama agree to a deal.<sup>28</sup><sup>A</sup> Senators from Alabama and Florida joined forces in November 2015, signing a letter to the U.S. Senate Appropriations Subcommittee on Energy and Water Development, urging the Subcommittee to attach additional language to the water and energy appropriation bill aimed at protecting the ACF River Basin.<sup>29</sup> The suggested language is modelled after the language Senator Shelby attached to the same appropriation bill aimed at protecting the ACT River Basin. The bill is expected to be taken up in December.

---

<sup>A</sup> While Governors Bentley and Deal met in Montgomery on March 16, 2015, to discuss the long-running water wars dispute, officials from both states declined to discuss the specifics of the meeting. Although the two states have conflicting views of water resource allocation in both the ACF and ACT River Basins, they are not currently pursuing litigation against each other.

control manuals for the ACT River Basin. The Master Water Control Manual was to include a master water control manual for the entire basin and individual water control manuals for particular projects. On November 7, 2014, the Corps released the Final Environmental Impact Statement (FEIS), as required by the Environmental Protection Act, on the updated Master Water Control Manual for the ACT River Basin, including both the master and individual project water control manuals.<sup>22</sup> This move immediately initiated new litigation over the ACT River Basin’s water resources.

**July 2012**

The U.S. District Court for the Northern District of Alabama dismisses with prejudice all but one of Alabama's claims.

**November 7, 2014**

The Corps releases the Final Environmental Impact Statement for the proposed update of the Master Water Control Manual for the ACT River Basin.

**October 23, 2012**

The U.S. District Court for the Northern District of Alabama dismisses with prejudice Alabama's remaining claim.

**November 7, 2014**

Georgia files suit against the Corps in the U.S. District Court for the Northern District of Georgia.

The same day the Corps released the FEIS, two separate lawsuits were filed against the Corps in the U.S. District Court for the Northern District of Georgia. Georgia filed suit accusing the Corps of refusing to consider the state's current and future water supply needs and asking the U.S. District Court for the Northern District of Georgia to order the Corps to evaluate requests for additional storage capacity at Lake Allatoona, one of the two federally managed reservoirs in the ACT River Basin. The state also asked for the FEIS to be vacated and for the Corps to design a new one that factors in Georgia's water supply needs. Additionally, the Atlanta Regional Commission and the Cobb County-Marietta Water Authority jointly filed suit against the Corps, citing similar grievances.<sup>23</sup> The two cases were consolidated on February 4, 2015.<sup>24</sup> As of November 13, 2015, the litigation is ongoing.

On May 4, 2015, the Corps released its Record of Decision (ROD)<sup>1</sup> on the Master Water Control Manual

<sup>1</sup> A Record of Decision (ROD) documents the final decision on a proposed action, summarizes alternatives that were considered and relevant factors that were balanced when making

for the ACT River Basin. Three days later, Alabama filed suit against the Corps in the U.S. District Court for the District of Columbia (where the Corps is headquartered). In the complaint, the state asked the U.S. District Court for the District of Columbia to hold that the Master Water Control Manual and the FEIS are unlawful and set them aside; order the Corps to revise the Master Water Control Manual or prepare new manuals for the ACT River Basin "consistent with the congressionally authorized purposes of the ACT River Basin, including but not limited to the Allatoona Project, and to ensure that downstream flow conditions in Alabama are consistent with historic flows;" order the Corps to modify the Master Water Control Manual to ensure that Alabama's state water quality standards are protected and maintained; and prepare a new FEIS consistent with federal law.<sup>25</sup> The complaint's causes of actions include unlawful abandonment and reordering of authorized project purposes; violation of the Clean Water Act's implementing regulations; violation of the National Environmental Protection Act;

the decision, and identifies means that have been adopted to mitigate adverse effects.



### **November 7, 2014**

The Atlanta Regional Commission and the Cobb County-Marietta Water Authority file suit against the Corps in the U.S. District Court for the Northern District of Georgia.

### **May 4, 2015**

The Corps releases its Record of Decision on the revised Master Water Control Manual for the ACT River Basin.

### **February 4, 2015**

The Atlanta Regional Commission and the Cobb County-Marietta Water Authority suit against the Corps is consolidated with Georgia's suit.

### **May 7, 2015**

Alabama files suit against the Corps in the U.S. District Court for the District of Columbia.



and violation of the Administrative Procedure Act.<sup>26</sup> As of November 9, 2015, this case is ongoing.

The pending litigation over water resources in the ACT River Basin brought by Georgia and Alabama are separate from the litigation over water resources in the ACF River Basin and, as such, are not overseen by the Special Master. Unlike the current ACF River Basin litigation, Georgia and Alabama each are suing the Corps, not each other.

## **Conclusion**

For more than two decades, Alabama, Florida, and Georgia have been locked in failed negotiations, legislative, and legal battles over access to water. The dispute is emblematic of an increasingly common economic problem facing cities and states across the country – the demand for water quickly outpacing the supply as growing populations and commerce increasingly consume more resources.<sup>30</sup> The manner of resolution, whether by litigation, interstate compacts, or negotiated settlements among the states' legislative

and executive branch leaders, likely will set a precedent for the Southern region. The experience of Alabama, Florida, and Georgia demonstrates the vital importance of early resource planning involving multiple stakeholders.

Another significant characteristic of this dispute is the claims of apportionment. While the arguments introduced by Alabama and Florida assume a riparian model, Georgia's claims imply a prior apportionment model. Arguments made by Alabama and Florida center on the "reasonable use" of upstream water, particularly as it relates to Alabama's agricultural industry and Florida's Apalachicola Bay. Georgia, on the other hand, has functioned as a senior appropriator, impacting Alabama and Florida.

As the Special Master repeatedly has reminded Florida and Georgia, the outcome of the current proceedings in the ongoing ACF River Basin dispute may be disagreeable to both states. Similar outcomes may be true for Alabama and Georgia in their respective federal litigation against the Corps. While Georgia and Flor-

ida are engaged in protracted settlement discussions, the governors of Alabama and Georgia also have met to discuss the ongoing dispute between the states. To ensure a mutually agreeable conclusion, the three states might consider resolution by entering into an interstate compact. Most water disputes in the West have been resolved through this approach. Entering into interstate compacts often is preferred because it allows states to maintain more control over their water resources and negotiate a solution that likely is more equitable to all parties involved.

In areas where populations continue to grow and resources become less abundant, interstate water disputes may become more frequent in states across the country. The ultimate resolution of the tri-state water wars likely will have future implications for the appropriation models and dispute resolution methods used by states in the region. Regardless of the means and methods that prove successful in resolving the conflict, the time and high cost of the tri-state water wars emphasizes the importance of early, ongoing, and collaborative planning among states that share water resources.

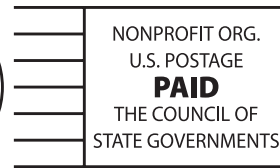
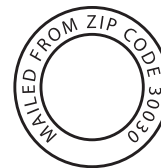
While the ongoing conflicts over water allocation in the ACF and ACT River Basins could not have been anticipated, predictive tools now exist that can significantly aid in future planning. In deploying these tools, states should be able to account for future population growth, current and projected economic needs, impacts to hydropower, downstream water quality, and the vital ecosystems that exist in and around the region's bodies of water.

As states consider their current and future water needs, the specter of this ongoing conflict likely will loom large. However, interstate planning, collaboration and cooperation to address future water needs and development of programs that will allow states to effectively share and distribute water resources that will meet their energy, residential, agricultural, industrial and economic demands could mitigate conflict.

## Endnotes

- 1 Stephenson, Dustin (2000) "The Tri-State Compact: Falling Waters and Fading Opportunities," *Journal of Land Use and Environmental Law*: Vol. 16: Iss. 1, pp 83-109.
- 2 Ruhl, J.B. (2005), Water Wars, Eastern Style: Divvying Up the Apalachicola-Chattahoochee-Flint River Basin. *Journal of Contemporary Water Research & Education*, 131: 47-54.
- 3 Complaint for Equitable Apportionment and Injunctive Relief, *State of Florida v. State of Georgia*, (The United States Supreme Court), November 3, 2014. <http://www.pierceatwood.com/floridavgeorgia142original>.
- 4 MDL-1824 Tri-State Water Rights Litig., In Re 644F.3d 1160 (11th Cir. 2011), cert. denied.
- 5 Ibid. [www.atlantaregional.com/File%20Library/Environment/Tri-State%20Water%20Wars/ep\\_Tri-State\\_Ruling\\_11th\\_Circuit\\_June\\_2011.pdf](http://www.atlantaregional.com/File%20Library/Environment/Tri-State%20Water%20Wars/ep_Tri-State_Ruling_11th_Circuit_June_2011.pdf) (accessed October 9, 2015)
- 6 Ibid. [www.atlantaregional.com/File%20Library/Environment/Tri-State%20Water%20Wars/ep\\_Tri-State\\_Ruling\\_11th\\_Circuit\\_June\\_2011.pdf](http://www.atlantaregional.com/File%20Library/Environment/Tri-State%20Water%20Wars/ep_Tri-State_Ruling_11th_Circuit_June_2011.pdf) (accessed October 9, 2015)
- 7 "Tri-State Water Wars: 25 Years of Litigation between Alabama, Florida and Georgia." Atlanta Regional Commission. <http://www.atlantaregional.com/environment/tri-state-water-wars> (accessed October 9, 2015).
- 8 Stockdale, Earl. "Authority to Provide for Municipal and Industrial Water Supply from the Buford Dam/Lake Lanier Project, Georgia." June 25, 2012. [http://www.sam.usace.army.mil/Portals/46/docs/planning\\_environmental/acf/docs/2012ACF\\_legalopinion.pdf](http://www.sam.usace.army.mil/Portals/46/docs/planning_environmental/acf/docs/2012ACF_legalopinion.pdf).
- 9 Telephone conference before Special Master Ralph I. Lancaster, (February 10, 2015), [http://www.pierceatwood.com/files/70729\\_2015-02-10%20Transcript%20of%20Conference%20of%20Counsel%20No.%203%20%28W4723336x7AC2E%29.pdf](http://www.pierceatwood.com/files/70729_2015-02-10%20Transcript%20of%20Conference%20of%20Counsel%20No.%203%20%28W4723336x7AC2E%29.pdf).
- 10 Statement of Participation for the United States, *State of Florida v. State of Georgia*, The Supreme Court of the United States, (February 5, 2015), [http://www.pierceatwood.com/files/70443\\_2015-02-09%20](http://www.pierceatwood.com/files/70443_2015-02-09%20)

- US%20Statement%20of%20Participation%20FL%20v%20GA%20%28W4712588x7AC2E%29.pdf.
- 11 Case Management Order No. 7, *State of Florida v. State of Georgia*, The Supreme Court of the United States, (April 8, 2015), [http://www.pierceatwood.com/files/73724\\_2015-04-08%20Case%20Management%20Order%20No.%207%20%28W4822859x7AC2E%29.pdf](http://www.pierceatwood.com/files/73724_2015-04-08%20Case%20Management%20Order%20No.%207%20%28W4822859x7AC2E%29.pdf).
  - 12 State of Georgia's Motion to Dismiss for Failure to Join a Required Party, *State of Florida v. State of Georgia*, The Supreme Court of the United States, (February 16, 2015), [http://www.pierceatwood.com/files/70772\\_2015-02-16%20GA's%20Motion%20to%20Dismiss%20for%20Failure%20to%20Join%20w.Certificate%20of%20Service%20%28W4724770x7AC2E%29.pdf](http://www.pierceatwood.com/files/70772_2015-02-16%20GA's%20Motion%20to%20Dismiss%20for%20Failure%20to%20Join%20w.Certificate%20of%20Service%20%28W4724770x7AC2E%29.pdf).
  - 13 Ibid.
  - 14 Ibid.
  - 15 Order on State of Georgia's Motion to Dismiss for Failure to Join a Required Party, *State of Florida v. State of Georgia*, The Supreme Court of the United States, (June 19, 2015) [http://www.pierceatwood.com/files/77448\\_2015-06-19%20Order%20re%20GA%20Motion%20to%20Dismiss%20%28W4954104x7AC2E%29.pdf](http://www.pierceatwood.com/files/77448_2015-06-19%20Order%20re%20GA%20Motion%20to%20Dismiss%20%28W4954104x7AC2E%29.pdf).
  - 16 Joint Motion for Confidentiality and Inadmissibility, *State of Florida v. State of Georgia*, The Supreme Court of the United States, (April 2, 2015), [http://www.pierceatwood.com/files/73465\\_2015-04-02%20Joint%20Motion%20for%20Confidentiality%20and%20Inadmissibility%20of%20Settlement%20Negotiations%20%282%29%20%28W4812137x-7AC2E%29.pdf](http://www.pierceatwood.com/files/73465_2015-04-02%20Joint%20Motion%20for%20Confidentiality%20and%20Inadmissibility%20of%20Settlement%20Negotiations%20%282%29%20%28W4812137x-7AC2E%29.pdf).
  - 17 Ibid.
  - 18 Status Report of the State of Georgia, *State of Florida v. State of Georgia*, The Supreme Court of the United States, (November 6, 2015), [http://www.pierceatwood.com/files/83843\\_2015-10-06%20GA%20Progress%20Report%20%28W5195979x7AC2E%29.pdf](http://www.pierceatwood.com/files/83843_2015-10-06%20GA%20Progress%20Report%20%28W5195979x7AC2E%29.pdf).
  - 19 Ibid.
  - 20 Bluestein, Greg, and Dan Chapman. "Federal Draft Proposal Would Allow More Water for Metro Atlanta." *The Atlanta Journal-Constitution*. October 2, 2015. <http://www.ajc.com/news/news/state-regional-govt-politics/federal-draft-proposal-would-allow-more-water-for-/nnsn4/> (accessed October 8, 2015).
  - 21 "Tri-State Water Wars: 25 Years of Litigation between Alabama, Florida and Georgia." Atlanta Regional Commission. <http://www.atlantaregional.com/environment/tri-state-water-wars> (accessed October 9, 2015).
  - 22 "Corps of Engineers Releases the Final Environmental Impact Statement." Mobile District. <http://www.sam.usace.army.mil/Media/NewsReleases/tabid/6473/Article/553981/corps-of-engineers-releases-the-final-environmental-impact-statement-for-the-ma.aspx> (accessed November 15, 2015).
  - 23 "New Lawsuit Challenges Water Control Plan for Allatoona Lake | Press Releases | Atlanta Regional Commission." <http://www.atlantaregional.com/about-us/news-press/press-releases/new-lawsuit-challenges-water-control-plan-for-allatoona-lake> (accessed November 15, 2015).
  - 24 Order on joint motion for consolidation, *The State of Georgia v. The United States Army Corps of Engineers, et al., The Atlanta Regional Commission and the Cobb County-Marietta Water Authority v. U.S. Army Corps of Engineers, et al.*, CIVIL ACTION NO. 1:14-cv-03594-RWS. (February 4, 2015)
  - 25 Ibid.
  - 26 *State of Alabama v. U.S. Army Corps of Engineers*, et al., (n.d.).
  - 27 Levy, Pema. "Apalachicola Water Wars: A Battle Between Georgia, Florida and Alabama is Killing the Last Great Bay." *International Business Times*. August 23, 2013.
  - 28 Malloy, Daniel, and Greg Bluestein. "Georgia Faces New Threats in Water Wars Feud." *The Atlanta Journal-Constitution*. May 29, 2015.
  - 29 Menzel, Margie. "Senators wade into river battle." *Tallahassee Democrat*. November 7, 2015.
  - 30 Chakraborty, Barnini. "Water War: Southern States Battle to Keep Faucets Flowing." *FoxNews.com*. February 17, 2014.



Southern Office of  
**The Council of State Governments**  
 P.O. Box 98129  
 Atlanta, Georgia 30359  
[www.slcatlanta.org](http://www.slcatlanta.org)

**Colleen Cousineau**  
 Director, SLC  
 Deputy Executive Director, CSG

# SOUTHERN LEGISLATIVE CONFERENCE

## THE SOUTHERN OFFICE OF THE COUNCIL OF STATE GOVERNMENTS

# REGIONAL VIEW NATIONAL REACH

This report was prepared by Anne Roberts Brody, Policy Analyst for the Energy & Environment Committee of the Southern Legislative Conference (SLC) of The Council of State Governments (CSG) under the chairmanship of Representative William E. “Bill” Sandifer of South Carolina. This report reflects the body of policy research made available to appointed and elected officials by the Southern Office.

The Southern Office of The Council of State Governments, located in Atlanta, Georgia, fosters and encourages intergovernmental cooperation among its 15 member states. In large measure, this is achieved through the ongoing work of the standing committees of its Southern Legislative Conference. Through member outreach in state capitols, policy research, international member delegations, staff exchange programs,

meetings and fly-ins, staff support state policymakers and legislative staff in their work to build a stronger region.

Founded in 1947, the SLC is a member-driven organization and the largest of four regional legislative groups operating under CSG and comprises the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia.

The SLC’s six standing committees provide a forum which allows policymakers to share knowledge in their area of expertise with colleagues from across the South. By working together within the SLC and participating on its committees, Southern state legislative leaders are able to speak in a distinctive, unified voice while addressing issues that affect their states and the entire region.