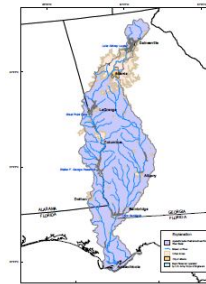


May 31, 2016

FLORIDA VS. GEORGIA: THE DECADES LONG WATER WAR CONTINUES, BUT IS AN END IN SIGHT?

By Samuel Smith

Most people take it for granted that when they turn on their faucet, a stream of water will flow forth, ready to be used for whatever purpose they deem necessary. It is likely that a majority of people never consider where that water comes from or the journey it takes from its source to their home. However, the people of the Apalachicola-Chattahoochee-Flint (ACF) River basin, spanning parts of the states of Georgia, Alabama, and Florida, have recently been forced to consider the origin of their water.



<http://water.usgs.gov/watercensus/acf.html>

The states of Georgia, Alabama, and Florida have been engaged in a legal battle over the allocation of water allowance from Lake Lanier in Northern Georgia, through Alabama, and ultimately to the Apalachicola Bay in Northwestern Florida since as early as 1990.^[i] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn1) The most recent event in the ongoing dispute was in 2013, when Florida filed a motion for leave to file a complaint against Georgia with the U.S. Supreme Court, to “equitably apportion the waters of the Apalachicola-Chattahoochee-Flint River Basin.”^[ii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn2) The U.S. Supreme Court ultimately granted the motion, and allowed Florida’s suit to go forward against

Georgia[iii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn3), thus setting the stage for the current conflict between the two states. The U.S. Supreme Court appointed a special master to the case on November 19, 2014,[iv] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn4) and has not taken any further action since.[v] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn5) The dispute is also currently proceeding in a different forum as well: an updated water control manual by the U.S. Army Corps. Of Engineers, which would devise a plan for allocating water in the ACF River Basin.[vi] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn6) However, no solution has been developed on either front, to the dismay of the case's special master.[vii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn7)

Each side presents a meritorious argument. Florida argues that because of Georgia's high consumption of water from the ACF river basin, the economy and ecology of its Apalachicola Bay region are being harmed.[viii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn8) Georgia argues in response that, "Florida does not claim that its citizens are being deprived of water for drinking, domestic, agricultural, or other consumptive uses," whereas "metropolitan Atlanta uses the Chattahoochee River for drinking, municipal, and industrial purposes." [ix] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn9) As it stands, compromise seems unlikely,[x] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn10) one state's position must be chosen to prevail. Georgia's argument seems more persuasive, because millions[xi] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn11) in metro Atlanta rely on the water obtained from the ACF river basin and Lake Lanier as the source of their drinking water.[xii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_edn12) This means that people in metro Atlanta may be deprived of water if Georgia is required to give in to Florida's demand and reduce consumption. Floridians' access to drinking water, on the other hand, will not be affected if Georgia maintains its current consumption habits. So, although the ecological and economic concerns that Florida's Apalachicola Bay region may face are valid, it would not be prudent to place those concerns over the needs of Georgia's largest metropolitan area's resident's access to drinking water.

[i] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref1) See In re MDL-1824 Tri-State Water Rights Litigation, 644 F.3d 1160, (11th Cir., 2011).

[ii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref2) Motion for Leave to File a Complaint at 1, Georgia v. Florida, No. 142, Orig. (U.S. 2013) (No. 220142), available at <http://sblog.s3.amazonaws.com/wp-content/uploads/2014/03/FLORIDA-v.-GEORGIA-Original-Action-Complaint.pdf> [hereinafter Fl. Motion].

[iii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref3) *Florida v. Georgia*, Supreme Court of the United States Blog, <http://www.scotusblog.com/case-files/cases/florida-v-georgia-2/> (last visited Apr. 8, 2016).

[iv] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref4) *Id.*

[v] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref5) See *id.*

[vi] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref6) Chris Marr, *Georgia Awaits Supreme Court, Corps of Engineers on Water*, Bloomberg BNA: State environmental reporter (Mar. 22, 2016), http://news.bna.com.ezproxy.law.uky.edu/sedmi/display/no_alpha.adp?mode=si&frag_id=85578029&item=13203&prod=sedm&cat=STATE.

[vii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref7) Dan Chapman, *Water wars judge miffed at "progress"* (Mar. 14, 2016), Atlanta Journal Constitution, <http://www.ajc.com/news/news/state-regional/water-wars-judge-miffed-at-progress/nqkYh/>.

[viii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref8) Fl. Motion at 3, *supra* note ii.

[ix] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref9) Opposition to Florida's Motion for Leave to File a Complaint at 28, Florida v. Georgia, No. 142, Orig. (U.S. 2014) (No. 220142), available at http://sblog.s3.amazonaws.com/wp-content/uploads/2014/10/No-142-Orig-Florida-v-Georgia-Georgia-Opp-to-Fla-Mot-for-Leave_-to-File-Compl-Jan-2014.pdf [hereinafter Ga. Brief].

[x] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref10) See Chapman, *supra* note vii.

[xi] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref11) *Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2013 - United States -- Metropolitan and Micropolitan Statistical Area; and for Puerto Rico*, US Census Bureau, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk> (estimating that the population of the Atlanta metropolitan statistical area was 5,522,942 in July of 2013).

[xii] (file:///C:/Users/Evan/Downloads/blog2%20(1).docx#_ednref12) Ga. Brief at 28, *supra* note ix.

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