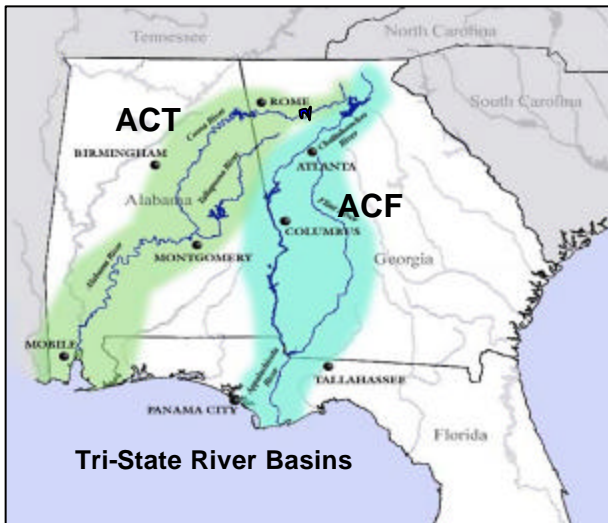




Georgia, Alabama and Florida have been fighting over water since the 1970s, and litigation has been pending for fifteen years. An attempt to settle these disputes through an interstate “compact” recently failed after ten years of negotiation, and we are now back in the courts.

Although these disputes may ultimately be decided by the U. S. Supreme Court, a federal court sitting in Birmingham, Alabama has recently reached out to assert jurisdiction over “all matters concerning the allocation of water in Lake Lanier” as well as water in the ACT Basin. The Alabama forum is highly unfavorable to Georgia and to the metro area.



The Two River Basins:

- **ACF:** Apalachicola-Chattahoochee-Flint (Ga., Ala. and Fla.)
- **ACT:** Alabama-Coosa-Tallapoosa (only Ga. and Ala.)

What’s at stake:

- Alabama and Florida seek a permanent injunction to prohibit water withdrawals in Georgia in excess of 2000 levels.
- This litigation threatens the security of Georgia’s present and future water supply and our ability to plan for and to accommodate future growth.

Quick Facts:

- **The Chattahoochee River, as regulated by Lake Lanier, is the sole source of water for most of the Atlanta metropolitan area.** The rest of the region is served largely by Lake Allatoona. Alabama and Florida contend that the Army Corps of Engineers is not authorized to operate *either reservoir* to provide water supply.
- **The ACF (including Lake Lanier) provides water for approximately 60% of Georgia’s population and about 1/3 of Georgia’s irrigated agriculture.** The ACF provides water for less than 1% of Florida’s population and about 8% of Alabama’s population. (90% of the ACF is in Georgia).
- **The ACT (including Lake Allatoona) provides water for about 10% of Georgia’s population and about 40% of Alabama’s population.** (27% of the ACT is in Georgia).
- **On average, total water supply withdrawals for metro Atlanta reduce flows at the Florida State line by just 1% to 2%.**

Metro Atlanta Chamber Position:

- **The stakes for Georgia and Metro Atlanta are huge, especially in the ACF basin.**
- **The State of Georgia and the Atlanta region must defend these lawsuits aggressively and must engage their Congressional and State leaders.**
- **Above all, Georgia must speak with a unified voice on water consistent with the State’s overall best interests.** Education on water myths versus facts is needed statewide.

Georgia - Alabama - Florida Tri-State Water Dispute - Litigation Chronology:

1972 – Congress authorizes the Army Corps of Engineers (“Corps”) to study alternatives needed to meet anticipated water supply needs of Metropolitan Atlanta

1988 – Corps water supply study completed (16 yrs). Recommended alternative was reallocating water stored in Lake Lanier from power generation to municipal water supply.

1989 – Corps releases new Water Control Plan for Lake Lanier, including draft plan to reallocate.

State of Alabama versus the Army Corps (Alabama Federal District Court)

1990 Alabama sues the Corps of Engineers in a preemptive challenge a proposed reallocation of storage in Lake Lanier and Lake Allatoona, alleging that the Corps did not intend to comply with the National Environmental Policy Act (NEPA) before finalizing these proposals.

1990 Litigation is immediately “stayed” to allow for negotiations.

1990-1992 – Successive agreements between the Corps, Alabama, Florida and Georgia lay the groundwork for a comprehensive study of the water resources of the ACF and ACT Basins, and for the interstate water allocation compacts.

1997 – formal “Compacts” on ACT and ACF ratified by each state and by Congress. Negotiations and studies continue. Compact deadlines extended repeatedly by all states

2003 – ACF Compact expires when Florida refuses to extend.

2004 - ACT Compact expires when Alabama refuses to extend.

2003-2005 – Litigation resumes. Alabama District Judge prohibits implementation of the D.C. Settlement Agreement (see below) and claims jurisdiction to allocate the waters of Lake Lanier. Allows Alabama and Florida to amend their complaints to challenge all aspects of the operation of the federal reservoirs for water supply and recreation.

Southeastern Federal Power Customers versus the Army Corps (D.C. Federal District Court)

2000: Association representing hydropower customers files suit in Federal Court in D.C. to challenge financial arrangements between local water supply providers and Corps. Allege that water supply providers should pay a higher price since this reduces water that can be used for hydropower.

2001 – State of Georgia, Atlanta Regional Commission and local water supply providers move to intervene and then participate in court-ordered mediation.

2003 – Settlement. After two years of intensive mediation, parties execute settlement agreement that provides compensation to the hydropower customers and provides interim contracts to meet present needs for the local water supply providers.

2003-2004. Alabama and Florida intervene in the D.C. Case to oppose the settlement agreement. After a full trial on the merits, these objections are overruled and the settlement agreement is declared to be “valid and approved.” Alabama and Florida appeal to the United States Court of Appeals for the District of Columbia, but their appeal is dismissed for jurisdictional reasons, allowing the approval order to stand.

2005. Alabama court refuses to honor the judgment of federal court in D.C. Continues the injunction against the Settlement Agreement.

(Recent decision by the Court of Appeals for the 11th Cir. was favorable to Georgia and dissolved this injunction)

Georgia versus the Army Corps (Georgia Federal District Court)

2001 - Georgia seeks a declaration that Lake Lanier should be operated to meet Georgia’s future water supply needs

2001, 2004 – Florida and Alabama intervene and then file a motion to “abate” the case. This motion is granted in July 21, 2004, allowing the Alabama Court to take control of the entire ACF/ACT dispute.

(United States Court of Appeals for the 11th Circuit upheld the abatement of the case 9-19-05)

What’s next? – *The Alabama federal court litigation continues, and additional appeals from various parties are expected.*