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September 22, 2010

The Honorable Jo-Ellen Darcy  
Office of the Assistant Secretary (Civil Works)  
Department of the Army  
108 Army Pentagon  
Washington, DC 20310-0108

Dear Secretary Darcy,

I am writing concerning the ongoing update of the water control manuals for the Apalachicola-Chattahoochee-Flint (ACF) River Basin. While I appreciate your September 3<sup>rd</sup> correspondence, I remain concerned regarding recent press comments (enclosure) stating the Corps would run a dual track analysis that takes the water supply withdrawals from Lake Lanier into account.

In your letter to me dated September 11, 2009, you stated that “[t]he Army will not use the process for updating the water control plans and manuals to propose or study any potential reallocation of water inconsistent with the court’s ruling.” If the Corps has undertaken a dual track analysis, that would be inconsistent with the commitment you made. If such a dual track analysis is underway, I request that you provide me with a full report on what has been done and what the plans are for the water-supply aspect of the two-track analysis.

In order for the three States to reach a settlement of their disputes concerning the ACF Basin, it is absolutely essential for the Corps to remain neutral. If the Corps’ leadership is telling one of the three States that it anticipates water supply withdrawals from Lake Lanier, it almost certainly will have an obstructive effect on the settlement negotiations among the three Governors.

I look forward to your prompt reply.

Sincerely,



Richard Shelby

(enclosure)



# Corps to officially remove 'water usage' from Lanier manual

By Patrick Fox  
The Atlanta Journal-Constitution

6:34 p.m. Friday, September 10, 2010

Georgia has taken what officials are calling a glancing blow in the tri-state water war.

The U.S. Army Corps of Engineers has rejected a request by Georgia to include water usage in its updated manual for operations of Lake Lanier. The decision means the corps intends to officially go back to operating Buford Dam at Lake Lanier for its original purpose: flood control, navigation and hydropower.

The corps last wrote an operating manual for the reservoir about 50 years ago. And while it did not include water supply among its "major uses," the corps later entered into contracts with surrounding counties and municipalities for drinking water.

In 1989, it adopted a draft manual -- never formalized -- which for the first time cited water usage as part of its operational plan. That draft plan remains in effect, according to attorney Todd Silliman of McKenna, Long & Aldridge, which has represented the state in water litigation over the past 12 years.

"Water supply has been a part of the operations since before that, but the 1989 plan was the first water control plan that recognized that," he said.

Roughly 3.5 million metro Atlanta residents -- including all of Gwinnett County -- depend upon Lake Lanier for drinking water.

The corps letter, dated Sept. 3, was in response to requests by Georgia Sens. Johnny Isakson and Saxby Chambliss, who had written in late July asking the corps to include water supply as one facet of operations at Buford Dam. Bert Brantley, spokesman for Gov. Sonny Perdue, said Friday the corps letter will have little if any impact on negotiations among Georgia, Alabama and Florida.

"I am extremely disappointed with the corps' response," Isakson said Friday. "A document that doesn't take into account current and future water supply withdrawals from Lake Lanier as well as other points in the system is useless."

When the Georgia delegation met with the military leadership of the corps recently, Isakson said, they were told the agency would run a dual track analysis that takes water supply withdrawals into account, because they anticipate withdrawals from Lanier in the future.

Chambliss took a similar tack.

"I believe it is a waste of time and resources for the Army Corps of Engineers to update the water control manuals without including water supply from Lake Lanier," he said Friday.

The decades-long water dispute involves stream flows from Georgia into Alabama and Florida.

Senior U.S. District Judge Paul Magnuson ruled last year that metro Atlanta has no rights to water from Lake Lanier and gave Georgia three years to work out a water-sharing agreement with Florida and Alabama. If a pact is not signed by July 2012, Magnuson said he would basically order the U.S. Army Corps of Engineers to turn off the tap to metro Atlanta.

Magnuson also said it was "beyond comprehension" that the corps' current operating manual for the Buford Dam/Lake Lanier operation is more than 50 years old.

While Georgia pursues an appeal of the Magnuson ruling, representatives from all three states have been engaged in talks since December to work out water flow agreements along the Alabama-Coosa-Tallapoosa River basin from Lake Allatoona to Alabama and the Apalachicola-Chattahoochee-Flint river basin from Lake Lanier to Florida and Alabama. Brantley said the governors remain committed to hammering out a deal before their terms end in January.



Last month, Perdue sent letters to Govs. Charlie Crist of Florida and Bob Riley of Alabama, inviting them to meet personally. Crist responded that, while he is open to meeting, he preferred waiting until negotiators made more progress on an agreement. Riley indicated he would meet anytime in the hopes of moving negotiations forward.

"The corps' letter simply confirms that the corps is obligated to follow the law, and it underscores the need for the three governors to come to a solution," said Riley spokesman Todd Stacy.

Brantley confirmed that staff negotiations have continued into this week. He also said a July ruling by Magnuson, dismissing Florida's argument to use the Endangered Species Act to dictate water flow into the Apalachicola River, has removed a major stumbling block.

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