

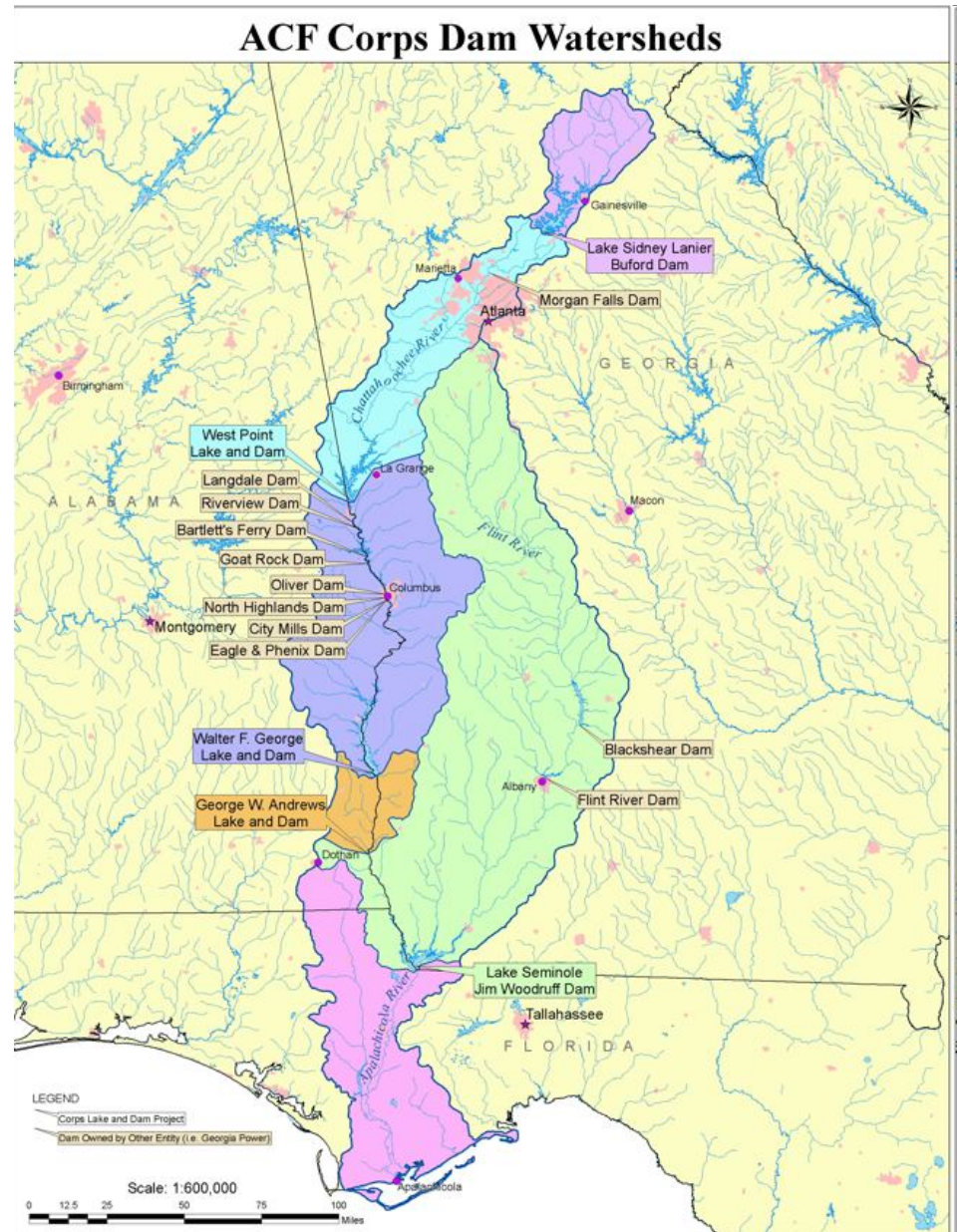
Georgia's Water Challenge

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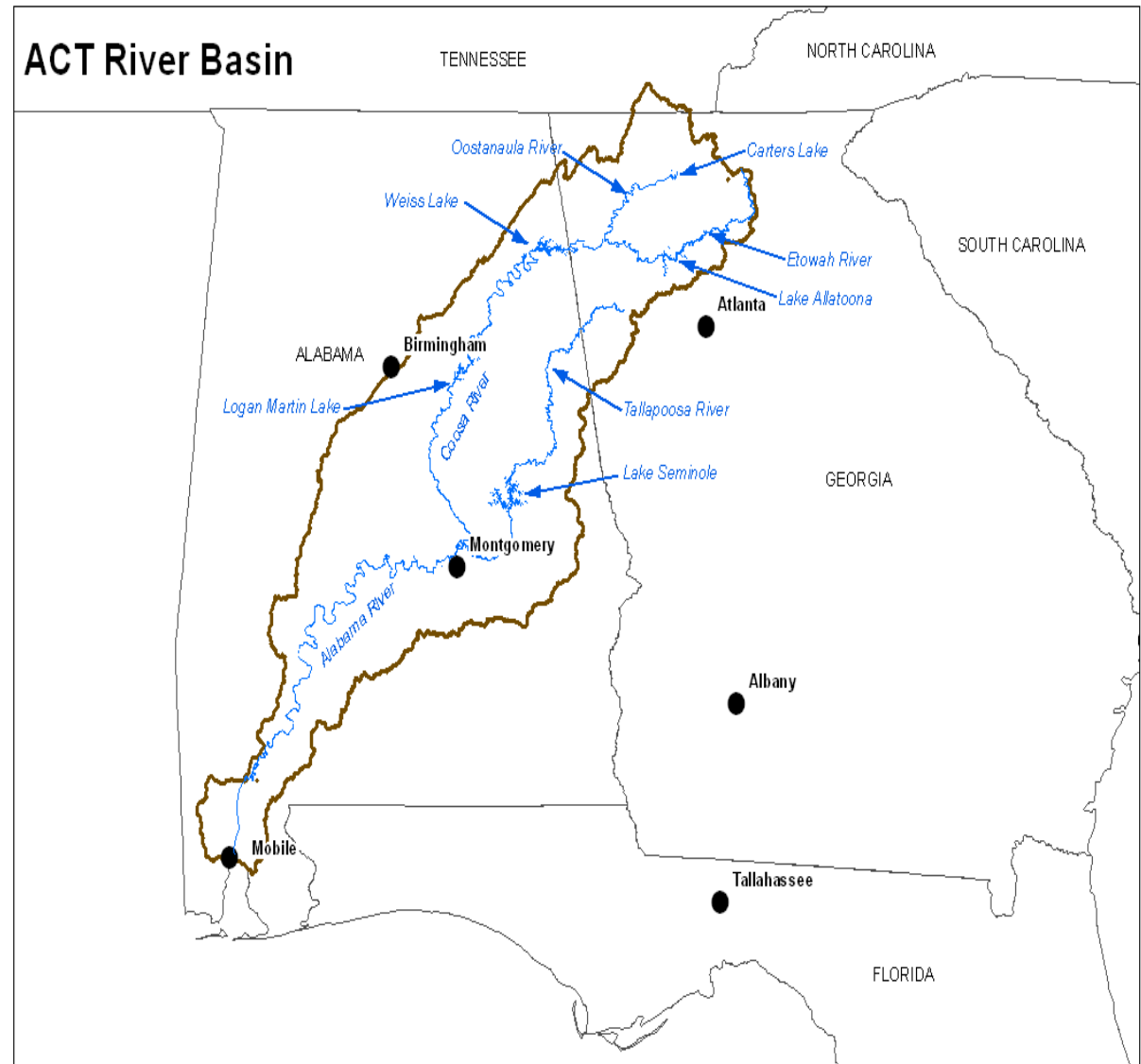
Water Basins

- Apalachicola-Chattahoochee-Flint (ACF)
- Key federal reservoirs are Lanier, West Point, Walter F. George, Seminole
- Lanier holds over 60% of storage in system, and is key for water supply for Metro Atlanta (some withdraw directly from lake, others rely on releases to ensure sufficient water in river for withdrawals)



Water Basins

- Alabama-Coosa-Tallapoosa (ACT)
- Federal reservoirs are Carters and Allatoona



ACF Litigation

- Over the past 20 years, a variety of lawsuits have been filed challenging the Army Corps of Engineers' operation of ACF federal reservoirs. These suits have been filed by Alabama, Florida, Georgia, and private power producers.
- These suits were consolidated before U.S. District Judge Paul Magnuson, a Minnesota judge sitting by designation in the Middle District of Florida.

Water supply authority

- Although these suits each involved different issues, they all shared a common thread – whether Lake Lanier was authorized for the Corps to operate it for water supply.
- There are two kinds of authority:
 - Project purpose
 - Must be specified when Lanier was built
 - Allows the Corps to operate Lanier for water supply even if other purposes suffer as a result
 - Water Supply Act
 - Passed in 1958, the WSA allows the Corps to operate all federal reservoirs for water supply regardless of project purpose, subject to certain limitations
 - Cannot harm project purposes
 - Operations cannot constitute “major operational change”

Lake Lanier Ruling

- On July 17, 2009, Judge Magnuson resolved the authority question.
- Water supply is not a project purpose.
 - Purposes are flood control, navigation, and hydropower
- The Corps' operations exceeded its authority under the Water Supply Act.
- As of July 17, 2012, unless Congress authorizes Lake Lanier for water supply or the states reach an agreement, the Corps must return to 1975-level operations and all withdrawals directly from the lake are prohibited.

Four-Prong Response Plan

- Governor Perdue immediately implemented a four-prong response:
 - Appeal
 - Negotiate with Alabama and Florida
 - Seek Congressional authorization for water supply
 - Create a contingency plan

Appeal

- Added Seth Waxman, former U.S. Solicitor General, to the legal team.
- Oral argument in the 11th Circuit set for week of March 7.
- Possible outcomes:
 - Total win – water supply as project purpose
 - Partial win – not project purpose, but WSA allows more water than Magnuson thought
 - Total loss – ruling affirmed in whole

Negotiate

- Negotiations on ACF and ACT have been pursued aggressively throughout Governor Perdue's term.
- Very close to deals in 2003 and 2007.
- The three Governors met late last year, and we have had negotiating teams working constantly since then.

Congressional Authorization

- The three states' delegations have met regularly.
- This prong is largely dependent on successful negotiations absent a significant change to dynamics.

Contingency

- Governor Perdue appointed a water task force comprised of key business leaders, state and local elected officials, and water experts.
- After months of work and over \$2 million in pro bono consulting work, the task force concluded there were no options fully to replace the water Lanier provides by July 2012.
- The only options that would make any impact in sufficient time were conservation-oriented options.

2010 Conservation Legislation

- The conservation legislation stemming from the water task force was spearheaded by Sen. Ross Tolleson and Rep. Lynn Smith, and eventually passed by huge margins in both chambers during the 2010 session.
- The legislation included:
 - Statewide outdoor watering ban during the hottest parts of the day (and highest evaporation rates)
 - Mandatory leak detection by large water systems
 - Requirements for high-efficiency fixtures in new construction after 2012
 - Required sub-metering of new apartment buildings constructed after 2012
 - Incentives for retrofits

ACT Litigation

- Alabama, Georgia, local governments, and water suppliers are in litigation over a variety of issues primarily related to Georgia's withdrawals from Lake Allatoona.
- This case has been stayed for some time pending negotiations.

Key issues for 2011 session

- Water compact?
- Storage options
 - State funding is difficult to provide in this down-budget year
- More conservation
 - Last year's bill was quite aggressive, and new measures would likely face great resistance