Appendix N
2009 Scoping Comments by Issue Area

BIOLOGICAL RESOURCES

FISHERIES

Comment ID: 22729
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Loss of unique and biologically important aquatic habitats and spawning grounds (e.g., rock shelves, natural bank root systems, and woody debris) in the Apalachicola River during critical life history stages for fish and wildlife.

Comment ID: 22732
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Effects of decreased flow on Gulf striped bass and Sturgeon thermal refugia in Apalachicola River.

Comment ID: 22804
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

The Chattahoochee River supports many species of fish, including both rainbow and brown trout. Several past scientific studies examined the effects of varying flow regimes on fish species. One study on trout reproductive success (Nestler, 1985) was completed by the USACE during an evaluation of a proposed reregulation dam at river mile 342. This report found that rainbow and brown trout habitat was optimal at flows of 1000 - 1500 cfs. A more recent report by Peterson and Craven (2007) stated that "discharge characteristics affected riverine fishes recruitment … during both spawning and rearing periods." During the spring spawning period, the study found that higher discharges (> 3500 cfs) positively influenced reproductive success and concluded that reproductive success could be increased if suitable discharges were maintained during critical time periods. However, the report also found that high flow pulses that do not mimic natural seasonal precipitation events have substantial negative influence on fish species, particularly during the summer rearing period. The high velocity of currents created by the pulses of water is detrimental to the survival of juvenile and young of year fishes because of the increased metabolic rate associated with swimming in these currents.

Comment ID: 22823
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

A. Types Of Impacts That Must Be Analyzed It is critical that the Draft EIS analyze the direct, indirect, and cumulative impacts of proposed alternative management regimes on the: •Marine fish and species and their habitat which require nutrients and fresh water from Apalachicola River and Bay to sustain their offshore Gulf ecosystem, otherwise known as the "Green River" effect.

Comment ID: 22840
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Changes in the abundance, distribution, and diversity of indicator fish communities; and

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FLOW CONCERNS FOR APALACHICOLA BAY

Comment ID: 22725
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

If the Corps does analyze existing operations, then the Corps also must evaluate the impacts of flow alterations that have resulted from the reallocation of storage to water supply through the Corps' incremental changes in reservoir operations that have occurred since the 1970s and have never been reviewed under NEPA. Adverse impacts of reduced flows on the Apalachicola River and Bay are well documented. The Corps' unlawful operation of Lake Lanier and Buford Dam for water supply has altered the timing and flows in the ACF Basin, resulting in the dewatering of habitat for important species in Florida's coastal zone, including federally listed species, and harming the ecosystems of the Apalachicola River and Bay. The Court in the Tri-State Water Rights Litigation also has held that operations for water supply and the consumptive use of water in the ACF Basin have caused Florida harm. See Phase 1 Order at 1341 ("[L]ow flows in the Apalachicola River are at least to some extent caused by the Corps'operations in the ACF basin and consumptive uses of the water in the basin, and those low flows cause harm to the creatures that call the Apalachicola home.").

Comment ID: 22727
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

4. Specific Impacts to Be Evaluated. In addition to the impacts to flows and generalized impacts described above, the Corps should evaluate for each alternative the following specific types of impacts at a minimum: a. Specific Apalachicola River Impacts. • Effects of altered flow on all hydrologically-connected wetlands in the reservoirs, tributaries entering the reservoirs, and riverine floodplain and wetlands of the Apalachicola River (e.g., changes in vegetation type and acreage, inundation depth and duration, and backwater effects on the tributary wetlands).

Comment ID: 22736
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

b. Specific Apalachicola Bay Impacts. • Changes to freshwater inflow, including quantity, timing and quality.

Comment ID: 22739
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

b. Specific Apalachicola Bay Impacts. Changes to physical structure of estuary, including increased tidal influence with inflow reduction.

Comment ID: 22740
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

b. Specific Apalachicola Bay Impacts. • Changes to transport of material to estuary.

Comment ID: 22760
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

The Apalachicola Riverkeeper urges the Corps to conduct a comprehensive and robust analysis of the environmental consequences of potential management regimes for the ACF River Basin and to develop and recommend a water management regime that will protect and restore the ecological health of the Apalachicola River and Bay and the entire ACF system. Fundamental to such a regime is the establishment and protection of the instream flows needed to protect and restore the chemical, physical, and biological integrity of the ACF system, and to protect and recover threatened and endangered species and species at risk. It is critical that the instream flow needs be assessed through the Draft EIS and protected by the final recommended plan.

Comment ID: 22761
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Management Of The ACF Has Caused Devastating Impacts To The Apalachicola River and Bay The Apalachicola River is a national treasure and one of the most productive river systems in the southeast. It has been designated by the United Nations as an International Biosphere Reserve, by the United States as a National Estuarine Research Reserve, and by the State of Florida as an Outstanding Florida Water. The river harbors the most diverse assemblage of freshwater fish in Florida, the largest number of species of freshwater snails and mussels, and the most endemic species in western Florida. The river basin is home to some of the highest densities of reptile and amphibian species on the continent. The Apalachicola's waters and floodplain are also the biological factory that fuels the Apalachicola Bay, one of the most productive estuaries in the northern hemisphere. The Apalachicola Bay is home to one of the largest and most productive oyster harvesting areas in the Gulf of Mexico, one of the principal nurseries for Gulf shrimp and blue crabs, and major commercial fishing operations. Apalachicola Bay provides nearly 90 percent of Florida's oysters and over 10 percent of the nation's oysters. The river and bay provide thousands of commercial fishing, recreational fishing, and ecotourism jobs, and form the cornerstone of the economy of six Florida counties. Despite its enormous

ecological value, the Apalachicola River ecosystem has been severely degraded as a result of the construction and operation of the ACF reservoirs, the impoundment of water by additional non-Federal upstream reservoirs, consumptive uses of water upstream, and a long history of navigational dredging. These activities have altered the river's flow regimes; reduced the river's hydraulic complexity and habitat diversity; smothered and displaced habitat in the river's rich sloughs, floodplains, and channel margins; and destabilized and widened the river channel. Decreased water levels in the river have caused the Apalachicola's floodplains and sloughs to dry out, with severe ecological effects. The floodplain forest is drying out and swamp trees are dying off in large numbers. It is essential that the Corps develop and implement a fundamentally new approach to managing the ACF.

Comment ID: 22768
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper further urges the Corps to fully consider the following recommendations to help implement this alternative (or as components of other alternatives): • Require that the appropriate ecologically sound instream flows be established jointly by the Administrator of the U.S. Environmental Protection Agency, the Director of the U.S. Fish and Wildlife Service, the Director of the National Oceanic and Atmospheric Administration, and the Director of the U.S. Geological Survey, in consultation with the National Academy of Sciences. The ideal flow regime would be one that mimics the quantity, timing, and quality of flows prior to construction of the dams and reservoirs within the ACF system.

THREATENED AND ENDANGERED SPECIES RELATED ISSUES

Comment ID: 22699
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

The manual update process should also evaluate the Corps' compliance with existing environmental laws. Since the federal reservoirs were constructed, Congress, Alabama, Florida and Georgia have enacted a number of laws and regulations designed to protect and enhance the quality of the environment, including the Clean Water Act and the Endangered Species Act. In operating the federal projects in the ACF Basin, the Corps must avoid operations that will violate or lead to violations of water quality standards or will cause directly or indirectly the take of an endangered species or impacts to critical habitat. As part of its effort to update the water control manuals at the federal reservoirs in the ACF Basin, the Corps should ensure that even under drought conditions, sufficient flow is maintained below each dam, so that water quality standards and endangered species are protected. Specifically, the Corps should coordinate with the Fish & Wildlife Service, the EPA and appropriate state agencies in Alabama, Florida, and Georgia to ensure that the water control manuals are compliant with the Endangered Species Act and the Clean Water Act.

Comment ID: 22687
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

The Fish and Wildlife Service ("Service") and the Corps used the wrong environmental baseline in determining what flow levels are required in the Apalachicola for protected species under the ESA. The correct baseline is run-of-river flows, which by definition do not consist of augmentation flows from Lake Lanier. Therefore, although we fully support the laudatory goal of the ESA, augmentation flows that disproportionately affect Lake Lanier are not required by the ESA and should not be imposed by the new WCP.

Comment ID: 22717
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

2. Recoveny-Based Alternative. ESA § 7 directs Federal agencies to use their authorities to further the purposes of the Act by conducting conservation programs or the benefit of endangered and threatened species. The U.s. Fish and Wildlife Service ("FWS") has developed recovery plans for the listed species in the Apalachicola River - the Gulf sturgeon and two freshwater mussel species~pursuantto ESA § 4. As part of its EIS review, the Corps should evaluate all available means to maximize the likelihood these species will recover to the point of de-listing by implementing recommendations in the recovery plans. Benefits occasioned by implementation of these plans will have widespread benefits throughout the Apalachicola River Basin.

Comment ID: 22730
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Fisheries impacts in Apalachicola River and effects of decreased connectivity to floodplain/ sloughs, including, but not limited to, impacts on listed Sturgeon and mussels.

Comment ID: 22743
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Specific Apalachicola Bay Impacts. Impacts on endangered species such as sturgeon in the River delta and Bay (critical habitat and food supply).

Comment ID: 22636
Author Name: Pine, William
Organization: University of Florida

Attached is a recent peer-reviewed publication related to Gulf sturgeon spawning and JWLD operations in the Apalachicola River. This paper was published in the journal Transactions of the American Fisheries Society.

Comment ID: 22877

Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

In addition, to the extent that the Corps anticipates obtaining a Biological Opinion from the U.S. Fish and Wildlife Service ("FWS") in connection with its analysis, we offer comment relative to that process as well.

Comment ID: 22886
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

3. Selection of an Appropriate Environmental Baseline for any Biological Opinion. In anticipation that the Corps may seek to obtain a Biological Opinion relative to its EIS strategy, given the history of the litigation in the MOL Court, we note that the Corps may not employ deference to a determination by another agency which it knows to be flawed. In two prior Biological Opinions issued in conjunction with ACF Basin operations, the FWS utilized an improper baseline for purposes of its analysis. In this regard, the environmental baseline which should be studied is the current status of the listed species and critical habitat, as it has been affected by all prior actions. The environmental baseline provides the withoutaction status, which FWS must compare to the future status of the species, taking into consideration the effects of the action together with any "cumulative effects." 50 C.F.R. § 402.14(g) and (h). If the species' status would be improved by the proposed action in comparison to the environmental baseline, then the action is considered "beneficiaL" If the species' status would be diminished in comparison to the environmental baseline, however, then the action is considered "adverse." Because the effects of the action are measured against the environmental baseline, it should be readily apparent that the baseline is often the difference between "take" and "no take." In its prior analysis, FWS used hydrological modeling to compare flows produced by the existing RIOP to what it called a "baseline" consisting of the actual flows produced by reservoir operations from 1975 to 2007 (the "Regulated Condition"). The decision to use the Regulated Condition from 1975 to 2007 as the baseline for this comparison is unlawful and arbitrary, however. The Regulated Condition cannot be used as the baseline because the Regulated Condition is the result of numerous discretionary actions by the Corps related to historic reservoir operations. Another reason that the Regulated Condition cannbt be used to measure the effects of the RIOP is that it is impossible to associate the Regulated Condition from 1975 to 2007 with anyone operating plan. The Corps modified its operations many times, in many ways, during those years. As a result of using the wrong environmental baseline to evaluate the RIOP, FWS confused natural mortality-mortality that would have occurred in the run-of-river condition without any reservoir regulation-with "take" caused by the RIOP. Based on that error, FWS imposed conditions requiring the Corps to minimize alleged take it did not cause. The run-of-river flow regime is the operating plan in which all dams and physical channel modifidations are assumed to remain in place, but where the reservoirs are not operated to control; the flow of water. In other words, the run-of-river flow regime is what the Apalachicola River would look like if the Corps simply "turned off' the reservoirs and let the river flow without regulation. The Eighth Circuit affirmed the use of the run-of-river flow regime as the baseline in In re: Operation of the Missouri River Sys. Litig., 421 F.3d at 632. The Ninth Circuit required the use of run-of-river as the environmental baseline in National Wildlife Federation Iv. National Marine Fisheries Service. See 524 F.3d at 928-931 (holding that NOAA Fisheries committed legal error by including discretionary reservoir operations in the baseline flow regime). If, and to the extent that, the Corps should seek to obtain a Biological Opinion frqm FWS in connection with its EIS analysis, or for purposes of study of any operational strategy derived therefrom, we urge the Corps to insist that FWS construct hydrological modeling utilizing a run-of-river flow regime so as not to draw improper inferences regarding alleged take of any currently listed endangered or threatened species, which the Corps has not caused, so as

to avoid imposing unnecessary conditions to remedy such perceived take and we urge the Corps to disregard any such conditions based on an erroneous baseline in connection with the development of its Water Control Manual for its reservoir operations.

Comment ID: 22658
Author Name: Timmerberg, Dick
Organization: West Point Lake Coalition

During the drought of 2007, a flow of 5,000 CFS at the Florida state line was mandated to protect endangered species. The USFWS literally grabbed this number because historically AND ERRONEOUSLY, this flow was in place to satisfy the perceived needs of Plant Scholz. It has been two years and USFWS has yet to complete and document their study of the minimum flows necessary to protect the endangered species. There is no documented downstream need for a guaranteed 5,000 CFS; to the contrary, the minimum needs are 2,500 CFS at most, and probably less! USFWS should be compelled to finish and document the minimum flows necessary to protect the endangered species immediately. Over two years is totally unacceptable. Note that prior to construction of West Point Dam, endangered species survived at historical low flows of less than 300 CFS.

Comment ID: 22821
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

A. Types Of Impacts That Must Be Analyzed It is critical that the Draft EIS analyze the direct, indirect, and cumulative impacts of proposed alternative management regimes on the: •Species listed as threatened or endangered under the federal Endangered Species Act (including both impacts within the Apalachicola River and ACF Basin and population wide impacts), and to areas designated as critical habitat under the federal Endangered Species Act in the Apalachicola River and ACF Basin;

OTHER BIOLOGICAL ISSUES

Comment ID: 22720
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

1. Careful Consideration of the Apalachicola River and Bay Ecosystems. The Apalachicola River and its floodplain ecosystem are unique, extensive and diverse. The nontidal portion of the floodplain flanking the River supports a complex forest/swamp ecosystem covering more than 80,000 acres. More than 200 miles of off-channel floodplain sloughs, streams, and lakes within the Apalachicola River Basin are directly influenced by the volume of flow in the River itself. These off-channel areas provide important habitat for a wide variety of organisms including mollusks, crustaceans, fishes, amphibians, reptiles, mammals and birds. More than 80% of all fish species found in the Apalachicola River spend some portion of their life cycle in these floodplain habitats, and the diversity of tree species found in the floodplain is among the highest in North American river floodplains. The Apalachicola River discharges its nutrient-rich freshwater into the Apalachicola Bay, one of the most productive estuarine systems on the Gulf of Mexico

coast. The 280-square-mile Bay provides 90% of Florida's rich oyster harvest (10% of the national harvest), supports an active finfish industry, and serves as an important nursery area for many marine species. The Bay also is home to the Apalachicola National Estuarine Research Reserve, one of only 27 sites so designated by the National Oceanographic and Atmospheric Administration as a research reserve, and which encompasses approximately 247,185 acres of land and water.

Comment ID: 22733
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Vegetation changes in the Apalachicola River floodplain, including impact to freshwater aquatic vegetation and fisheries near Apalachicola River delta and Bay during low flows.

Comment ID: 22734
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Effects of increase in grass carp stocking and escapement from upstream reservoirs on lower River submerged aquatic vegetation and Bay sea grasses during high flows and low salinities.

Comment ID: 22735
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Disruption in natural food web if flows are reduced significantly (i.e., crayfish, mussel, macroinvertebrate populations in river and floodplain).

Comment ID: 22744
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Specific Apalachicola Bay Impacts. Potential increase in invasive species in Bay (and River) due to their ability to respond quickly to changes.

Comment ID: 22753
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions: • Effects of flow alterations and continued loss of aquatic habitats in the main

channel and floodplain on fish and wildlife populations that are dependent upon main channel habitats and connectivity to the main channel for extended spawning and nursery periods, including sturgeon and mussels.

Comment ID: 22884
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

Other alternatives need to be explored to address any salinity issues that might exist in Apalachicola Bay. To the extent salinity impacts the species, the root cause of any impact and any consequent mitigation needs to be determined. The Corps should study the effect of Sikes Cut in particular. Sikes Cut is the man-made navigation channel that was cut through St. George Island, the barrier island that separates the bay from the Gulf of Mexico. The cut allows salt water to pour into the bay on a continuous basis. Although additional analysis is needed, Sikes Cut likely has a far greater impact on salinity in the bay than any minor effect of flows due to reservoir operations. The Corps should study the effect that Sikes Cut is having on Apalachicola Bay and any alternatives that could mitigate this effect if required.

Comment ID: 22820
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

A. Types Of Impacts That Must Be Analyzed It is critical that the Draft EIS analyze the direct, indirect, and cumulative impacts of proposed alternative management regimes on the: •Fish and wildlife in the Apalachicola River, Floodplain, and Bay,the ACF Basin, and the Gulf of Mexico including impacts to commercially and recreationally harvested species, and to affected migratory species throughout their ranges;

Comment ID: 22822
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

A. Types Of Impacts That Must Be Analyzed It is critical that the Draft EIS analyze the direct, indirect, and cumulative impacts of proposed alternative management regimes on the: •Riverine and floodplain wetlands, including the Apalachicola River floodplain wetlands, and the Apalachicola River floodplain forests and sloughs; and

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Comment ID: 22829
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. Actions that Must Be Evaluated In The Cumulative Impacts Analysis To comply with the cumulative impact assessment requirements, the Corps must analyze whether and how the proposed alternative management regimes could supplement, aggravate, or intensify the impacts of the following types of past, present, and reasonably foreseeable future actions throughout the entire ACF Basin: •Reasonably foreseeable future changes in rainfall, water quantity, salinity, wetland losses, sea level rise, and storm events that will result from climate change.

Comment ID: 22834
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Acres of river and floodplain wetlands lost;

Comment ID: 22835
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Acres of native upland habitats lost;

DATA, STUDIES, & ANALYTICAL TOOLS

Comment ID: 22700
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

After the critical yield calculations, the baseline conditions, and the Corps' compliance with existing laws are assessed, then the Corps and the states should agree upon the computer model that will be used to evaluate the impact of any changes to the baseline operations. During the Comprehensive Study and the negotiations under the ACF Compact, a significant amount of work was done in the development of the HEC5 model and the assumptions underlying the model runs. While Florida never agreed to use the HEC5 model as the only modeling tool and continued to use the STELLA model in connection with the allocation formula negotiations, Alabama, Florida and Georgia and the Corps are familiar with the HEC5 model. As a result, each of their technical staffs is able to evaluate the results of HEC5 model runs and to identify potential inconsistencies between the modeled output and anticipated results.

The State of Alabama understands from previous scoping efforts that revisions to the Water Control Manuals will be evaluated using the ResSim model. The ResSim model should only replace the HEC5 model after the technical staffs of the three states and the Corps agree that the ResSim model is a better tool to evaluate the ACF system. It would be inappropriate and premature for the Corps to develop the ResSim model without input from the states on the assumptions underlying the model and without sufficient time for each of the states to develop the experience and expertise required to evaluate the results generated by the ResSim.

Comment ID: 22713
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

B. Modeling Modeling is a crucial component of both the NEPA review process and the development of a new WCM. The 2009 Final Scoping Report indicated the Corps' intent to evaluate revisions to the WCM using the ResSim model. Previous analyses, such as the 1998 draft EIS on the ACF Compact, have utilized the HEC-5 model and the technical staff of each of the three States are familiar with the HEC-5 model. Development and utilization of a new model, such as ResSim, should only occur with input and approval from all three States. The Corps should afford the States' technical staff adequate and sufficient opportunity to review, become acquainted with, comment on, and endorse the assumptions underlying a new model.

Comment ID: 22625
Author Name: Manganiello, Chris
Organization:

How can I find and read the existing draft Master Water Control Manual (1989) and the existing individual project manuals? I searched the site but could not find these documents.

Comment ID: 22899
Author Name: Tucker, Sandy
Organization: U.S. FISH AND WILDLIFE SERVICE

A prioritized list of reservoir and groundwater projects can be obtained from the Water Contingency Planning Task Force, formed by Governor Purdue in October 2009.

DROUGHT OPERATIONS

Comment ID: 22711
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

The State of Alabama also believes that the Corps' updated manuals should establish some degree of certainty in drought conditions. The Corps' water control manuals should recognize that releases from conservation storage at Lake Lanier for protection of downstream flows and water quality are necessary and expected and that impacts to recreation and recreation facilities are temporary but unavoidable during dry conditions. Under no circumstances should the Corps base the critical yield analysis of the reservoirs on the entire conservation storage pools and then adopt operational schemes that prevent the use of any portion of such storage. The bottom of the conservation pool at Lake Lanier is set at 1035' MLS and the critical yield calculation assumes that the entire conservation pool is exhausted. Limiting releases from Lake Lanier to prevent the lake from going below an elevation well above 1035' MLS establishes an artificial barrier that was never authorized or approved by Congress.

Comment ID: 22817
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

Again, the review of such projects should include an assessment of each project individually as well as cumulative impacts with other potential and foreseeable projects. In assessing the cumulative impacts associated with the operation of the ACF Basin, the Corps must consider the amount of water that may be lost from the basins through interbasin transfers and consumptive uses and should consider appropriate limitations on any such losses, particularly under drought conditions.

Comment ID: 22754
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions: • Implementation of drought management plans with reasonable triggers to declare drought conditions.

Comment ID: 22755
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions: • The occurrence of more severe and! or extended droughts in the future.

Comment ID: 22843
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To accurately analyze and understand the impacts to natural resources, consideration of rainfall must be included and appropriate compensation made for climatic changes. Our evaluation of the relationship indicates that flows are significantly reduced even though the most recent droughts are no worse than the previous droughts. This invalidates any justification for lowering minimum flows due to contentions that droughts are becoming more severe.

FLOOD RISK MANAGEMENT

Comment ID: 22778
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

FLOOD CONTROL -- During the fall of 2009, the ACF system, especially the region between West Point Lake and Lake Lanier experienced several major flooding events. One of the events occurred in late September of 2009 and in the words of USGS was a record setting event. West Point Lake began the event at full pool, and Lake Lanier was nearly full. The vast amount of rain and related storm water run off occurred between Buford Dam and Franklin GA. West Point lake took the full brunt of the flood while at full pool and the Corps successfully managed the flood without any major downstream impact.

Prudent flow management and wise use of induced storage resulted in a well controlled event. Practices used during this event by the Corps should be incorporated into operating plans and set aside flood storage should be reduced accordingly- especially during winter months.

Comment ID: 22781
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

Flood concerns north of West Point should be addressed by providing additional flood storage in Lake Lanier with reduced lake elevations there for winter flood storage, and not by relaying on increased storage capacity in West Point Lake which carries the recreational authorization. Lake Lanier elevations should be reduced to comply the authorized use of that lake and not increased as has been demanded. Any increase in elevation at Lanier can only adversely impact demands to reduce flood storage on West Point Lake. Reducing demands for storage at West Point and increasing flood storage at Lanier which carries the recreational authorization is important to assure compliance with the year round recreational authorization at West Point.

NATIONAL ENVIRONMENTAL POLICY ACT

APPLICABLE REGULATIONS

Comment ID: 22704
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

I. Scope of the Corps' EIS Review Florida agrees with the Corps that the WCM for the ACF Basin and the water control plans for each of the five federal reservoirs on the Chattahoochee River must be consistent with the Court's legal rulings in the Phase 1 Order. The Corps' operation of the ACF reservoirs significantly affects the citizens and environment of Florida. And, Florida has always maintained that the Corps must review and revise its operations and WCM to be consistent with federal law, including the National Environmental Policy Act ("NEPA"), the Water Supply Act of 1958 ("WSA"), the Flood Control Act ("FCA"), the Endangered Species Act ("ESA") and the Coastal Zone Management Act ("CZMA"). Irrespective of the Phase 1 Order, NEPA has always required a broad review of alternatives, impacts and mitigation measures.

Comment ID: 22722
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Finally, the Apalachicola River and Bay- and indeed, the entire State of Florida - are protected by the enforceable policies of the federally approved Florida Coastal Management Program ("FCMP"). Therefore, pursuant to the CZMA, the Corps' actions which affect the Apalachicola River and Bay must be consistent to the maximum extent practicable with the FCMP.18 The FCMP includes enforceable policies of 24 Florida statutes administered by nine State agencies and five water management districts designed to ensure the wise use and protection of the State's water, property, cultural, historic, and biological resources; to protect public health; to minimize the State's vulnerability to coastal hazards; to ensure orderly, managed growth; to protect the State's transportation system; and to sustain a vital economy.

Comment ID: 22803
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

CRNRA was established in 1978 when Congress determined that the "natural, scenic, recreation, historic, and other values of a 48-mile segment of the Chattahoochee River … are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them." CRNRA consists of 48 miles of river and a series of 16 land-based park units located between Buford Dam and Peachtree Creek, just north of Atlanta, Georgia. The park provides approximately three-quarters of the public green space in the greater Atlanta area, and provides outdoor recreation activities for over three million visitors per year. The Chattahoochee River forms the backbone of the park, and CRNRA has a vested interest in the operations of Buford Dam, as the timing of water releases and related flows in the river directly impact the ability of the park to support the

ecological, recreational, and cultural purposes mandated by Congress. Our comments focus on these three purposes and highlight specific issues that should be evaluated and considered in the EIS/Water Control Manual update.

Comment ID: 22879
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

The regulation at 40 C.F.R. § 1502 (c), properly applied, requires the Corps to include water supply at and above current uses in its EIS, particularly since the historical practice has been to support this water supply use.

Comment ID: 22766
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Critically, the alternative ultimately recommended by the Draft EIS must also comply with the full suite of federal laws and policies designed to protect the environment. These include, the Endangered Species Act, the Clean Water Act, the Safe Drinking Water Act, the Magnuson-Stevens Fishery Conservation and Management Act, the Coastal Zone Management Act, and the new mitigation requirements applicable to Corps civil works projects that were established by § 2036(a) of the Water Resources Development Act of 2007. These new mitigation requirements must be satisfied, among other times, whenever the Corps will be recommending a project alternative in an EIS. 33 U.S.C. § 2283(d). The recommended alternative must also comply with the strictures of Judge Paul A. Magnuson's July 17, 2009, order. The alternative ultimately recommend by the Draft EIS must also comply with the Clean Water Act water quality certification requirements of Florida, Alabama, and Georgia. This includes compliance with Florida's strict instream flow protection requirements.

BASELINE CONDITIONS

Comment ID: 22724
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

2. Evaluation of Present Circumstances in the ACF Basin. The 2009 NOI indicates that, to satisfy its NEPA obligations, "the Corps will evaluate present circumstances as part of its EIS, while acknowledging that it currently lacks authority to continue to accommodate present levels of water supply at Lake Lanier beyond July 17, 2012." Although the exact meaning of this statement is unclear, it appears that the Corps will include existing conditions in its EIS analysis and implies a comparison of existing operations (i.e., with water supply) with post-2012 operations (i.e., without water supply). Such an analysis would be inconsistent with the Phase 1 Order. An analysis that compares proposed WCM revisions to anything other than a baseline that does not include water supply withdrawals and releases from Lake Lanier would be inappropriate, unlawful and in direct contravention of the Phase 1 Order.

Comment ID: 22790

Author Name: Houston, Billy
Organization: Tri Rivers Waterways Development Assoc

1. The Corps Must Determine Project Purposes with Reference to the Original Authorizing Statutes. TRWDA's previous comments emphasized that the Corps must abide by the Congressionally authorized purposes of the ACF River System, and TRWDA set forth the lawful project purposes for all five of the Corps' ACF reservoirs. The Court Order demonstrates that TRWDA applied the correct method to identify the Congressionally authorized purposes for the Corps' ACF projects. TRWDA cited the original statutes authorizing the construction of the reservoirs, as well as the specific Corps documents referenced in those statutes. For example, in the case of Lake Lanier, TRWDA cited primarily the 1946 Rivers and Harbors Act, Pub. L. No. 79-525, 60 Stat. 634, 635 (1946), and House Document No. 80-300 (1946). From those documents, TRWDA concluded that the three Congressionally authorized purposes of Lake Lanier are flood control, navigation, and hydropower. The Court cited the very same documents under the sub-heading of "Authorization," as well as additional legislative history. Court Order at 6-9. The Court then concluded that the primary purposes of Lake Lanier are flood control, navigation, and hydropower. Court Order at 72-74. Therefore, the Court Order confirms that TRWDA has used the correct method to determine the lawful purposes of the Corps' reservoirs in the ACF River System. TRWDA's prior comments explained that water supply is not a Congressionally authorized purpose of Lake Lanier. The Court agreed as follows: Having thoroughly reviewed the legislative history and the record, the Court comes to the inescapable conclusion that water supply, at least in the form of withdrawals from Lake Lanier, is not an authorized purpose of the Buford project. Court Order at 77. The Court Order went on to explain that additional Congressional authorization would be required before the Corps could lawfully reallocate Lake Lanier storage for water supply regardless of what has been done in the past. Court Order at 88.

Comment ID: 22832
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Historical flows (i.e., the pre-dam and reservoir flow regimes), including the amount, timing, and quality of flows in the ACF rivers; •Acres of river and floodplain wetlands lost; •Acres of native upland habitats lost; •Miles of streambed lost or modified; •Changes in stream flows; •Changes in ground water elevations; •Changes in the concentrations of indicator water quality constituents; •Changes in the abundance, distribution, and diversity of indicator fish communities; and •Changes in rainfall, and reasonably foreseeable future changes;

GENERAL

Comment ID: 22816
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

Again, the review of such projects should include an assessment of each project individually as well as cumulative impacts with other potential and foreseeable projects. In assessing the cumulative impacts associated with the operation of the ACF Basin, the Corps must consider the amount of water that may be lost from the basins through

interbasin transfers and consumptive uses and should consider appropriate limitations on any such losses, particularly under drought conditions.

Comment ID: 22683
Author Name: Barmeyer, Patricia
Organization: ATLANTA REGIONAL COMMISSION

In conclusion, the Water Supply Providers have long supported the Corps' efforts to update the water control manuals for the ACF River Basin. We support this effort because we firmly believe that any objective analysis will show that there is enough water in the ACF Basin to meet the reasonable needs of all stakeholders if the reservoirs are operated properly. Therefore, we urge you to embrace the NEPA process as an opportunity, finally, to insert facts into a discussion that for years has been dominated by misinformation and political posturing.

Comment ID: 22796
Author Name: Barnes, John
Organization: GA EPD

B. The Corps Must Consider the Impact on the Human Environment of Water Supply Alternatives to Lake Lanier If the Corps intends to include within the scope of the EIS for the WCM a scenario in which Lake Lanier would not be used meet water supply needs, then it must fully consider the effects on the human environment of operating Lake Lanier in that manner. That would include consideration of the effects of the alternative means by which the approximately three million people that previously relied upon Lake Lanier as their sole source of water supply would then be supplied with water. The EIS must consider the cumulative impact of the no action alternative and other reasonable alternatives. "Cumulative impact" is defined to include the effects not only of the agency's actions but the actions of third parties that will result from the agency's actions: Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or nonFederal) or person undertakes such other actions. 40 C.F.R. § 1508.7. The Council on Environmental Quality's NEPA guidance echoes this point in instructing that even where the federal agency has determined that the "no action" alternative means to take no action whatsoever, the EIS must assess the effects of the actions by others that will occur in reaction to the agency's not taking a particular action: Where a choice of "no action" by the agency would result in predictable actions by others, this consequence of the "no action" alternative should be included in the analysis. For example, if denial of permission to build a railroad to a facility would lead to construction of a road and increased truck traffic, the EIS should analyze this consequence of the "no action" alternative. (Council on Environmental Quality, "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," Question 3, 46 Fed. Reg. 18026, 18027 (1981)). Thus, the Corps cannot ignore the enormous environmental, social, and economic costs (footnote 4) that would result from ceasing to provide water supply to the millions of Georgians that have depended on Lake Lanier for decades by merely declaring that its "no action" alternative will not include water supply. It must consider those effects as part of the cumulative impact associated with altering its operations to cut off water supply. Those effects would include, for one, water shortages that would endanger human health, cripple the local and regional economies, and inflict substantial harm on the national economy. They also would include development of alternatives to replace the hundreds of millions of gallons of water that Lake Lanier previously supplied. Those alternatives would involve substantial environmental and economic costs. (footnote 5) ---------- 4 In preparing its EIS, the Corps should consider the degree to which the action may adversely affect, not only endangered

species and the natural environment, but also the human environment. 40 C. F. R. § 1508.27(b) (definition of "significantly"). Therefore, effects to public health and safety must be taken into consideration along with other economic and societal effects. Id.; 40 C.F.R. § 1508.14 (definition of "human environment"). 5 A statewide task force of business leaders, elected officials, community representatives, and conservation organizations appointed by Governor Sonny Perdue has estimated that the Atlanta area alone would suffer an economic hit of approximately $26 billion annually if Lake Lanier cannot be operated for water supply and alternatives are not available. The task force concluded that alternatives sufficient to meet the shortfall that would be created by the loss of Lake Lanier would not be available by July 2012, and that the alternatives that might be available after 2012 would cost billions of dollars to construct and implement. Those alternatives would involve adverse environmental impacts in addition to the economic costs. The report of the task force is available online at http://gov.georgia.gov/00/channelmodifieddate/O,2096,78006749154453222,OO.html.

Comment ID: 22800
Author Name: Barnes, John
Organization: GA EPD

C. Failing to Consider Water Supply in the Current EIS Process Would Result in a Waste of Corps Resources and Taxpayer Dollars Although by no means assured, it is at least a reasonably plausible scenario that, either by reversal of the July 17, 2009 ruling or an act of Congress with or without a prior agreement among the three States, the current legal impediments to the Corps' authority to operate Lake Lanier for water supply will be removed prior to July 17, 2012. In that event, if the Corps has not studied water supply as an alternative, it will have to redo the EIS. Therefore, in addition to the fact that assessment of water supply alternatives is necessary to fully evaluate the effect of scenarios that do not include water supply, it would be a waste of the Corps' efforts and taxpayer dollars for the Corps to prepare an EIS that does not fully assess the impact of meeting present and future water supply needs.

Comment ID: 22691
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

Specific Requests for the New WCP ... To accomplish this, we request the following of the Corps in its creation of the new WCP: (c) it model such proposals and alternatives where possible, and include in its Record of Decision for the new WCP a thorough explanation of its modeling and analysis of such proposals and alternatives as well as its reasons for accepting or rejecting them.

Comment ID: 22703
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Accordingly, the following comments focus on the scope and elements of the Corps' EIS review for the WCM updates and revisions, including the calculation of an updated critical yield for each reservoir in the ACF Basin and a broad review of alternatives and impacts of the proposed action. In particular, Florida encourages the Corps to carefully evaluate the impact of the Corps' operation of its ACF reservoirs on the citizens, ecology and economy of Florida,

especially on the unique and extraordinary Apalachicola River and Bay.

Comment ID: 22706
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

II. Elements of the EIS The EIS for the WCM revision should include an accurate and updated critical yield based on the actual drought of record; should utilize an appropriate and agreed-upon modeling approach; should analyze a full range of alternatives; and should carefully consider associated impacts and mitigation measures, as well as appropriate state and federal environmental laws.

Comment ID: 22718
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

3. Water Supply and Conservation Alternatives. In evaluating the impacts on the human environment of a WCM that complies with the Phase 1 Order, the Corps must also include cumulative impacts from other water supply options that the State of Georgia will inevitably develop. In evaluating these impacts, as described in more detail below, the Corps should include careful consideration of alternatives to development of new water supply sources, including water conservation measures, wastewater reuse and recycling, and other water supply alternatives such as inter-basin transfers to the ACF Basin and desalination. The State of Georgia's Water Contingency Planning Task Force has already identified these and more alternatives to additional water supply sources in the ACF Basin, though it rejected many.

Comment ID: 22719
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

D. Review of Impacts

An EIS must include a discussion of "the environmental impacts of the alternatives including the proposed action, [and] any adverse environmental effects which cannot be avoided should the proposal be implemented." The relevant impacts to be reviewed include direct, indirect and cumulative impacts. At a minimum, the Corps should evaluate the impacts described below to the Apalachicola River and Bay.

1. Careful Consideration of the Apalachicola River and Bay Ecosystems.
2. Evaluation of Present Circumstances in the ACF Basin.
3. Impacts of Increasing Water Supply Demands.
4. Specific Impacts to Be Evaluated.

Comment ID: 22726

Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

3. Impacts ofIncreasing Water Supply Demands. The Corps should evaluate its revision of the WCM in conjunction with proposed new sources for water supply or diversion, such as increases in storage pools of existing federal reservoirs or new reservoirs that are being planned for the ACF Basin. For example, to meet projected increases in water supply demands, the North Georgia Metropolitan Water District ("Metro Water District") recently identified 6 planned reservoirs and 2 storage (no additional yield) reservoirs projected to be constructed by 2035 in the Metro Water District, and 17 potential new reservoirs and water sources for development post-2035.21 For one of the planned reservoirs, the Glades Reservoir, the Corps Savannah District is currently considering an application for a Clean Water Act § 404 permit,though no programmatic EIS for these and other proposed reservoirs is planned. The cumulative impacts of the proposed reservoirs, and any additional water supply sources or diversions necessitated by the Phase 1 Order, must be evaluatedby the Corps as part of the WCM EIS process. The Corps also should evaluate the impacts of growth induced by providing new sources of water supply in the ACF Basin.23 NEPA requires that all secondary/indirect impacts of this population growth also must be assessed.24 For example, water quality impacts from additional wastewater discharges should be evaluated, and the Corps should assess all of the potential impacts caused by its facilitation of any population increase-e.g., impacts from pharmaceuticals and other substances for which wastewater treatment is not available. These contaminants are a suspected cause of reproductive anomalies and failures in fish and other wildlife species.

Comment ID: 22745
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions:

• All depletion of water within the entire ACF Basin, including metro Atlanta uses, irrigation in the Flint River Basin, and reservoir evaporation. At a minimum, all grandfathered and permitted acreage should be included. Further, the analysis must reflect the best available information on the effects of ground water pumping on stream flows, which at a minimum equal and probably exceed those quantified by the USGS ground water model for southwest Georgia.

• Depletion of water from growth in the metro-Atlanta region, as well as other cumulative impacts from population growth within the region.

• All modifications to seasonal timing or altered timing of flows caused by reservoir operations, including federal and non-federal reservoirs. Special attention should be paid to Corps policies to hold reservoirs high, operational changes that redistribute and!or store water previously released for navigation support and the effects of thousands of small reservoirs (current and future) in the ACF Basin. In particular, the Corps continues to permit new reservoir construction without any comprehensive review of impacts or a programmatic EIS.

• All point source and large-scale non-point source discharges of pollutants.

• Effects of flow alterations and continued loss of aquatic habitats in the main channel and floodplain on fish and wildlife populations that are dependent upon main channel habitats and connectivity to the main channel for extended spawning and nursery periods, including sturgeon and mussels.

• Implementation of drought management plans with reasonable triggers to declare drought conditions.

• The occurrence of more severe and! or extended droughts in the future.

Comment ID: 22757
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

As described above, Florida agrees with the Corps' revision of the WCM to be consistent with the Court's Phase 1 Order. Florida encourages the Corps to carefully evaluate a full range of alternatives and associated impacts of the Corps' operation of its ACF reservoirs on the citizens, ecology and economy of Florida, especially on the extraordinary Apalachicola River and Bay. In addition, Florida looks forward to the opportunity to review and comment on the development of the revised WCM, the Corps' updated critical yield analysis and the new model for the ACF Basin.

Comment ID: 22629
Author Name: Boddie, Nathan
Organization:

The scope of impact caused by CoE regulation of the ACF basin should be considered basin-wide. This includes, but is not limited to, the Appalachiacola bay, surrounding watershed areas and habitat.

Comment ID: 22878
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

1. Scope of NEPA NEPA was enacted in 1969 to put an end to the practice of establishing environmental policy "by default and inaction," and making major decisions "in small but steady increments" that perpetuate the mistakes of the past. See Natural Resources Defense Council, Inc. v. Morton, 458 F.2d 827, 836 (D.C. Cir 1972) (quoting S. Rep. No. 91-296, 91st Cong., 1st Sess. (1969) p. 5). NEPA does this by requiring each federal agency to prepare an EIS before undertaking any "major Federal action[] significantly affecting the quality of the human environment." 42 U.S.C. § 4332(C). An EIS is a "detailed statement by the responsible official" of an agency that discusses the environmental impact of the proposed action, adverse environmental effects, alternatives to the proposed action, "the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity," and "any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented." See 42 U.S.C. § 4332(C). "[BIY focusing the agency's attention on the environmental consequences of a proposed project," the requirement to prepare an EIS "ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast." Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989). The EIS also serves a larger informational role, however, by

providing a springboard for public comment. Id. NEPA also created the Council on Environmental Quality (CEQ) and directed it to promulgate regulations applicable to all federal agencies. The CEQ regulations are found at 40 C.F.R. Parts 1500 to 1518. Federal Regulations at 40 C.F.R. § 1502.14 represent the heart of the environmental impact statement. Based on the information and analysis presented in the section on the Affected Environment (Sec. 1502.15) and the Environmental Consequences (Sec. 1502.16), an EIS should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decision maker and the pUblic. Pursuant to this section agencies shall: (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated. (b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits. (c) Include reasonable alternatives not within the jurisdiction of the lead agency. (d) Include the alternative of no action. (e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference. (f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

Comment ID: 22762
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Scoping Recommendations I. The Draft EIS Must Evaluate Alternatives That Will Protect and Restore the Ecological Health of the Apalachicola River and Bay, and the Entire ACF System "The primary purpose of an environmental impact statement is to serve as an action-forcing device" to insure that the policies and goals of NEPA are infused into the decision making process. 40 C.F.R. § 1502.1. The policy goals of NEPA include a continuing responsibility on the part of the federal government to use all practicable means to: (1) "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;" (2) "assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings; [and]" (3) "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences." 42 U.S.C. § 4331(b). The Draft EIS must "state how alternatives considered in it and decisions based on it will or will not achieve" these policy goals, and the goals established by other environmental laws and policies. 40 C.F.R. § 1502.2(d).

Comment ID: 22773
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

II. The Draft EIS Must Comprehensively Analyze the Direct, Indirect, and Cumulative Impacts of the Proposed Alternatives In comparing and analyzing potential alternatives, the Draft EIS must examine, among other things, the direct, indirect, and cumulative environmental impacts of a full range of alternatives, the conservation potential of those alternatives, and the means to mitigate adverse environmental impacts. 40 C.F.R. § 1502.16. This assessment is essential for determining whether less environmentally damaging alternatives are available. The Draft EIS must provide "quantified or detailed information" on the impacts, including the cumulative impacts, so that the courts and the public can be assured that the Corps has taken the mandated hard look at the environmental consequences of the Project. Neighbors of Cuddy Mountain v. U. S. Forest Service, 137 F.3d 1372, 1379 (9th Cir. 1998); Natural Resources Defense Council v. Callaway, 524 F.2d 79, 87 (2d Cir. 1975). Critically, if information that is essential for making a reasoned

choice among alternatives is not available, the Corps must obtain that information unless the costs of doing so would be "exorbitant." 40 C.F.R. § 1502.22. Direct impacts are caused by the action and occur at the same time and place as the action. Indirect impacts are also caused by the action, but are later in time or farther removed from the location of the action. 40 C.F.R. § 1508.8. Cumulative impacts are: "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." 40 C.F.R. § 1508.7. A cumulative impact analysis ensures that the agency will not "treat the identified environmental concern in a vacuum." Grand Canyon Trust v. FAA, 290 F.3d 339, 346 (D.C. Cir. 2002). A meaningful analysis of cumulative impacts must identify: (1) the area in which effects of the proposed project will be felt; (2) the impacts that are expected in that area from the proposed project; (3) other actions - past, present, and proposed, and reasonably foreseeable - that have had or are expected to have impacts in the same area; (4) the impacts or expected impacts from these other actions; and (5) the overall impact that can be expected if the individual impacts are allowed to accumulate. TOMAC, Taxpayers Of Michigan Against Casinos v. Norton, 435 F.3d 852 (D.C. Cir. 2006) (quoting Grand Canyon Trust, 290 F.3d at 345); Fritiofson v. Alexander, 772 F.2d 1225, 1245 (5th Cir. 1985) (holding this level of detail necessary even at the less detailed review stage of an Environmental Assessment). Where, as here, the project area encompasses entire river basins, the cumulative impacts analysis must analyze the cumulative effects of other projects in those river basins. See, e.g., LaFlamme v. F.E.R.C., 852 F.2d 389, 401-02 (9th Cir. 1988); Natural Resources Defense Council v. Callaway, 524 F.2d 79, 94 (2d Cir. 1975). This includes an analysis of the cumulative effects of federal, state, and private projects and actions. The requirement to assess non-Federal actions is not "impossible to implement, unreasonable or oppressive: one does not need control over private land to be able to assess the impact that activities on private land may have" on the project area. Resources Ltd., Inc. v. Robertson, 35 F.3d F.3d 1300, 1306 (9th Cir. 1993). As CEQ has made clear, in situations like those in the ACF where the environment has already been greatly modified by human activities, it is not sufficient to compare the impacts of the proposed alternative against the current conditions. Instead, the baseline must include a clear description of how the health of the resource has changed over time to determine whether additional stresses will push it over the edge. Council on Environmental Quality, Considering Cumulative Effects Under the National Environmental Policy Act at 41 (January 1997).

Comment ID: 22824
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. Actions that Must Be Evaluated In The Cumulative Impacts Analysis To comply with the cumulative impact assessment requirements, the Corps must analyze whether and how the proposed alternative management regimes could supplement, aggravate, or intensify the impacts of the following types of past, present, and reasonably foreseeable future actions throughout the entire ACF Basin: - Past, present, and reasonably foreseeable future water withdrawals from the Apalachicola, Chattahoochee, and Flint Rivers from Federal, non-Federal, and private projects and actions; - Past, present, and reasonably foreseeable future reservoir and dam operations; - Past navigational dredging activities (with particular emphasis on changes in channel morphology, water levels, and floodplain forests and wetlands); - Past, present, and reasonably foreseeable development, including commercial, residential, and road construction; - Reasonably foreseeable future changes in rainfall, water quantity, salinity, wetland losses, sea level rise, and storm events that will result from climate change. - Reasonably foreseeable future improvements in water conservation.

Comment ID: 22831
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

In analyzing the cumulative effects of the activities discussed above, the Corps must define and utilize the historical flow conditions (pre-ACF Federal and pre-non-Federal dams and reservoirs) of the Apalachicola, Chattahoochee, and Flint rivers as the baseline, with particular attention to the historical flow regime of the Apalachicola River. Divergence from the historical flow conditions in the ACF have resulted in significant adverse impacts to Apalachicola River and Bay. As noted above, if this information is not currently available, the Corps must obtain this information unless the costs of doing so would be "exorbitant." 40 C.F.R. § 1502.22.

MITIGATION

Comment ID: 22860
Author Name: Barmeyer, Patricia
Organization: ATLANTA REGIONAL COMMISSION

The Corps Should Consider Alternatives to Address Problems Created by Channel Degradation and Other Issues Finally, the EIS should also include a study of alternative "solutions" to the problems that Florida has identified in the Apalachicola River and Bay. Although few if any of these problems were caused by reservoir operations, Florida seems to be believe that reservoir operations can be used to solve them. As we have shown in previous comment letters, however, the cost of using the reservoirs in this manner far exceeds any small benefit that can be achieved. The Army should consider other, more practical solutions instead. Gwinnett County provided a summary of alternatives to be considered in its letter dated December 22, 2009; we agree with Chairman Bannister that these alternatives should be included in the EIS.

Comment ID: 22756
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

E. Consideration of Mitigation NEPA requires the Corps to evaluate "means to mitigate adverse environmental impacts." The Corps has not yet defined or presented potential alternatives to the proposed action - the new WCM- or provided data on impacts. Thus, it is impossible to articulate specific mitigation measures without knowing what impacts and alternatives will be involved. Nevertheless, as part of its NEPA review, the Corps should consider additional system-wide mitigation with regard to water quantity and flows in the ACF Basin. Previously, the Corps has recognized its broad obligation to analyze potential mitigation actions to address direct, indirect and cumulative impacts, including not only actions to be taken by the Corps, but also actions that could be taken by local, regional, or state governments or by private entities. In the 1998 Compact DEIS, the Corps specified that mitigation of impacts on water quantity was "an inherent part of [a] State's responsibility," and that "[m]itigation to meet remaining water demands could include alternative sources of water supply, alternative conservation methods, and public programs to encourage wise use of water resources." As acknowledged by the Georgia Water Contingency Planning Task Force, the State of Georgia can,

and should, do more to avoid the construction of new water supply sources, including imposing strong, mandatory water conservation measures, and increasing wastewater recycling and reuse. The Corps should analyze increased wastewater recycling and reuse, coupled with wastewater treatment and water conservation measures, as an alternative and as a means to mitigate any impacts associated with the Corps' proposed action and cumulative impacts of new sources of water supply in the ACF Basin.

Comment ID: 22654
Author Name: Dunlap, Kit
Organization: Atlanta Regional Com

The Corps should consider mitigation measures that are not already included in the proposed action or alternative. The Corps needs to consider mitigation measures to mitigate the catastrophic environmental and economic impact of the operational alternative defined in the November 19, 2009 Federal Register. For example, increasing the level of Lake Lanier to offset the lake withdrawals and alternative operations that provide peaking power in the system coincidental with water supply needs downstream of Buford should be looked at as mitigation measures.

PROPOSED ACTION & ALTERNATIVES

Comment ID: 22694
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

In 1990, the State of Alabama sued the Corps of Engineers over its operations and proposed operations of several federal reservoirs, including Lake Lanier, West Point Lake and Lake Walter F. George (Lake Eufaula) in the ApalachicolaChattahoocheeFlint River Basin. The operations of these federal reservoirs have a substantial and profound impact upon numerous interests of our citizens. In the lawsuit over the ACF Basin, the State of Alabama claims that the Corps' management of the ACF System, particularly Lake Lanier, has violated and continues to violate federal law and regulations. Alabama has always maintained that the Corps must update the Water Control Manuals in a manner that is consistent with federal law. Alabama therefore agrees with and supports the Corps' decision to reopen the EIS scoping process for the Water Control Manual update in the ACF Basin in light of the July 17, 2009 Federal Court Order issued in MDL1824 (TriStates Water Litigation) (the "Order"). As the Corps' renotice recognizes, that Order found that the Corps lacks legal authority for most of its current water supply operations at Lake Lanier, and sets clear and unambiguous limitations on the Corps' ability to facilitate major water supply operations at Lake Lanier beyond July 17, 2012. Alabama believes that the Corps must strictly adhere to the operational directives contained in the Order in revising the Water Control Manuals, as any deviation from the terms of the Order will violate federal law and generate additional conflict and litigation.

To satisfy the Corps' obligations under Federal law, including the National Environmental Policy Act, the Order makes clear that the Corps must focus on the authorized purposes of Lake Lanier (hydropower, navigation, and flood control) and establish a scope for the manual update that addresses several objectives. First, the Corps should determine the critical yield of each reservoir using the most current hydrologic and climatic conditions. Second, the Corps should adhere to the operational baseline as set forth in detail in the July 17, 2009 Order. Third, the Corps should use the agreed upon HEC5 model developed during the Comprehensive Study and used in the negotiations of the allocation

formula under the ACF River Basin Compact or develop a new model that is agreed upon by the Corps and the states. Fourth, the Corps should assess whether any changes in the baseline conditions are necessary to comply with existing laws and regulations, including laws and regulations designed to protect the environment. Fifth, the Corps should analyze any proposed modifications against the baseline set forth in the Order and other legal requirements to develop the proposed operations for Lake Lanier, West Point Lake and Lake Walter F. George (Lake Eufaula). Each of these objectives is critical to the update process. Refusing to undertake a complete review and assessment of each of these objectives will ensure that valid water control manuals will never be developed and that additional conflicts over the Corps' operations of the federal reservoirs in the ACF Basin will follow.

Comment ID: 22698
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

Alabama is unsure of exactly what the Corps means when it says it intends to "evaluate current present circumstances as part of its EIS, while acknowledging that it currently lacks authority to continue to accommodate present levels of water supply at Lake Lanier beyond July 17, 2012." While current operations might be noted or described as general background information, Alabama sees little point in any evaluation of operations which have been clearly and unambiguously found to exceed the Corps' legal authority. It would be a clear waste of time and taxpayer resources to conduct any detailed evaluation of such operations. Moreover, Alabama does not believe the Corps can, or should, make any assumptions in the manual update process regarding possible future Congressional action that might expand its current authority. Any such exercise would be inherently speculative and unlikely to result in useful data or relevant analysis. Rather, the Corps should conduct the manual updates strictly in accordance with the current limitations on its legal authority to operate the federal reservoirs in the ACF Basin, as explicitly described in the July 17, 2009 Order.

Comment ID: 22701
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

Assuming the Corps uses the appropriate model or allows the states to develop the necessary expertise in the ResSim model, the Corps should evaluate potential modifications to the baseline conditions that would form the basis for the new water control manuals and master manual. Any proposed modification to the baseline condition must determine whether and to what extent such modifications in or deviations from the approved operations prevent the Corps from fully satisfying the Congressional authorized project purposes of hydropower generation, flood control, and navigation support. The Corps must also assess whether the proposed operations under the revised water control plan will be consistent with applicable federal laws, including, but not limited to, the Water Supply Act and the Flood Control Act. Alabama believes that the Order imposes firm outer limits on the Corps' ability to operate for water supply, and under no circumstances should the Corps consider reservoir operations that exceed the water supply parameters set forth in the Order.

Comment ID: 22710
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

The State of Alabama is also concerned that some proposed reservoir projects under consideration in Georgia may have impact upon inflows into the federal reservoirs in the ACF Basin, including inflows from the Flint River. Whether such projects impact the amount of water flowing into the federal reservoirs or the demands placed upon the federal reservoirs by downstream interests, a detailed assessment of the environmental and operational impacts of such proposed projects is critical to future operations of the federal and nonfederal projects in the ACF Basin. Again, the review of such projects should include an assessment of each project individually as well as cumulative impacts with other potential and foreseeable projects. In assessing the cumulative impacts associated with the operation of the ACF Basin, the Corps must consider the amount of water that may be lost from the basins through interbasin transfers and consumptive uses and should consider appropriate limitations on any such losses, particularly under drought conditions.

Comment ID: 22715
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

As the Corps is keenly aware, the State of Alabama has a significant interest in the operations of the federal reservoirs in the ACF Basin. The Corps' operation of these reservoirs has a direct and substantial impact on the quantity and quality of water flowing into Alabama. Any effort to update the water control manuals and the master manual should proceed in a logical and stepwise manner and should start with a calculation of the critical yield from each reservoir. Without determining how much water is available from each reservoir during critical times, it is impossible to evaluate potential modifications in the operations of these reservoirs and to determine whether such operations are authorized by law. The Corps has a significant responsibility in protecting water quality and the environment downstream of its projects. A detailed review of the operations and proposed operations under existing environmental rules and regulations needs to be a significant part of this exercise. Finally, the Corps' operations should not protect uses of the water stored in these reservoirs that have not been authorized by Congress. In choosing between releases and retention, the Corps must consider the authorized purposes of the reservoir and not make its decision based upon what it believes to be politically feasible or economically beneficial.

The Secretary of the Army assured Alabama's congressional delegation that the update of the ACF water control plan would involve a complete, toptobottom, "clean slate" review of the ACF system. Alabama expects that the Secretary's assurance will be fulfilled, and the issues raised in this letter must be fully addressed in order for the assurance to be met.

Comment ID: 22677
Author Name: Barmeyer, Patricia
Organization: ATLANTA REGIONAL COMMISSION

The Atlanta Regional Commission, the City of Atlanta, Georgia, the Cobb County Marietta Water Authority, Fulton County, DeKalb County, and the City of Gainesville, Georgia (collectively, the "Water Supply Providers") submit these comments on the scope of the U.S. Army Corps of Engineers' Environmental Impact Statement for the updates to the Water Control
Manuals for the Apalachicola-Chattahoochee-Flint ("ACF") River Basin, 74 Fed. Reg. 59,965 (Nov. 19,2009) (the

"Revised Notice").

The Revised Notice states that the scope of the EIS and water control manual updates will be limited based on a July 17,2009 district court ruling in In re Tri State Water Rights Litigation, Civil Action No. 3:07-md-l (M.D. Fla.), and that the Corps "will consider only operations that are within [its] existing authority" as determined by the district court. 74 Fed. Reg. at 59,966. It also states that the Corps will not "consider a reallocation of storage for water supply at Lake Lanier as part of the process for updating the ACF water control plans and manuals." ld.

The Water Supply Providers are deeply concerned that the scope of the new Water Control Plan and the new EIS have been drawn so narrowly as to render them meaningless. The stakeholders need and deserve a full and fair study of all alternatives to the current operating plans for the ACF Basin. Therefore the EIS should not be limited to alternatives consistent with the Corps' existing authority. To the contrary, the decisionmakers in Congress and within the Corps need to know that much better alternatives exist.

Comment ID: 22679
Author Name: Barmeyer, Patricia
Organization: ATLANTA REGIONAL COMMISSION

The Corps Is Required by NEPA to Study All Reasonable Alternatives, Including Alternatives that Exceed the Corps' Current Authority

To the extent the Army believes its hands are tied by Judge Magnuson's order or by any other limitations on its current authority, we disagree. NEPA requires all federal agencies to "[r]igorously explore and objectively evaluate all reasonable alternatives" to the proposed action, including alternatives that are "not within the jurisdiction of the lead agency." 40 C.F.R. § 1502.14. Thus, NEPA mandates that the Corps consider "all reasonable alternatives," even if they exceed the Corps' current authority. See, e.g., Natural Resources Defense Council v. Morton, 458 F.2d 827, 837 (D.C. Cir. 1972) ("The mere fact that an alternative requires legislative implementation does not automatically establish it as beyond the domain of what is required for discussion, particularly since NEPA was intended to provide a basis for consideration and choice by the decisionmakers in the legislative as well as the executive branch.").

Comment ID: 22680
Author Name: Barmeyer, Patricia
Organization: ATLANTA REGIONAL COMMISSION

Given the legal requirement to study all reasonable alternatives, including alternatives that exceed the Corps' current authority, it would be arbitrary and capricious for the Corps to exclude consideration of water supply from the EIS. The alternative of securing whatever authorization might be required to continue doing what the Corps has been doing for the past thirty years is clearly a reasonable one-indeed, the July 17 Order would appear to direct the Corps to seek such authorization. The alternative of reallocating storage as necessary to meet future water supply needs should also be studied. Indeed, the Corps adopted this alternative as the preferred alternative in the 1989 Post-Authorization Change Report after decades of study. The fact that the Corps might need to secure additional Congressional authorization to reallocate storage in Lake Lanier does not make this alternative any less reasonable today than it was in 1989. To the contrary, it is just as clear as it ever was that water supply is by far the highest and best use of the

storage in Lake Lanier. The benefits of reallocating storage to water supply exceed costs to hydropower and other purposes by billions of dollars, and the environmental impact would be negligible. These facts, and the trade-offs presented, should be included in the EIS to ensure that this information will be available to decisionmakers within the Army and in Congress.

The EIS Should Assist Decisionmakers in Determining Whether to Seek Additional Authority for Water Supply Operations at Lake Lanier

As stated above, the EIS should consider alternatives that achieve the highest and best use of the resource without regard to any existing limitations on the Corps' legal authority. To the extent additional authority is required, the EIS should help the decisionmakers within the Corps decide whether to seek it.

In addition to being required by NEPA, this approach to the EIS would significantly increase its value to the Corps, to the stakeholders, and to Congress. It would make little sense for the EIS simply to assume that Lake Lanier is off-limits to water supply when the matter is still being litigated on appeal, when the district court itself has all but demanded that the Corps seek additional authorization, and when the three States are currently hard at work to negotiate a compromise. The EIS should therefore be broad enough to acknowledge the current legal reality while, at the same time, accommodating the possibility that the current reality might change. Indeed, given the practical reality that the legal authorization must change, the EIS, to be relevant, should help decisionmakers decide how to change it. It can only do this by including consideration of alternatives that meet current and future water supply needs.

The Corps Must Also Consider Alternatives to Accommodate Water Supply Within the Confines of Judge Magnuson's Order

The Army should also consider alternatives to accommodate water supply needs within the confines of the July 17 Order. Much can be done, even within these strictures, to mitigate the environmental and economic catastrophe that is unfolding. For example, the Corps can and should study alternatives to the current hydropower schedule to ensure that peaking releases are scheduled on a reliable basis to meet downstream water supply needs incidental to hydropower releases. We do have specific proposals in this regard and would appreciate the opportunity to meet with the Corps to discuss them.

Comment ID: 22678
Author Name: Barmeyer, Patricia
Organization: ATLANTA REGIONAL COMMISSION

Indeed, the tragedy of this controversy is that there is plenty of water in the ACF Basin to meet the reasonable needs of all stakeholders, but only if the reservoirs are operated properly. Lake Lanier provides ample storage to meet future water supply needs for metropolitan Atlanta and North Georgia at minimal cost to the environment or downstream stakeholders. Indeed, the Water Supply Providers have proposed an alternative operating plan for the ACF Reservoir system that meets future water demands while also performing at least as well or better for all other stakeholders. Our plan would be to meet our future water supply needs while also producing more valuable hydropower, and it would also be better for the species in the Apalachicola River based on the metrics developed by the Fish and Wildlife Service in the Biological Opinion. These and other alternatives to the current operations should be included in the EIS.

Comment ID: 22793
Author Name: Barnes, John
Organization: GA EPD

A. The Corps Must Consider Alternatives Beyond its Current Authority Georgia has appealed the holding in the July 17, 2009 ruling. (footnote 1) Even if the July 17,2009 ruling is affirmed on appeal, however, the Corps can and should study as alternatives reservoir operations that allocate storage to meet existing and future municipal and industrial water supply needs. It is Georgia's understanding that, prior to the July 17, 2009 ruling, the Corps intended to use as the "no action" alternative reservoir operations that included storage to meet at least current if not also future water supply needs. Given the many decades during which the Corps has utilized Lake Lanier to accommodate water supply needs, it would be reasonable for the Corps to include water supply operations within the no action alternative. (footnote 2) Putting aside the question of whether water supply operations should be included within the no action alternative or instead should be analyzed within one or more of the reasonable alternatives to the no action alternative, (footnote 3) however, water supply operations clearly must be considered and compared against the effects of any alternative that does not include water supply. NEPA requires the Corps to consider reasonable alternatives for operating the reservoirs to meet the needs of stakeholders. The Corps' consideration of alternatives must even include alternatives, such as operations for water supply, that may be deemed to exceed the scope of the agency's jurisdiction. See 40 C.F.R. § 1502.14(c)(stating that alternatives analysis shall include "reasonable alternatives not within the jurisdiction of the lead agency"). Such analysis is useful not only to the Corps but also the Congress and the President, to the extent that further legislation may be needed. See Natural Res. Defense Council, Inc. v. Morton, 458 F.2d 827, 836-37 (D.C. Cir. 1972). As the D.C. Circuit held in Morton: The mere fact that an alternative requires legislative implementation does not automatically establish it as beyond the domain of what is required for discussion, particularly since NEPA was intended to provide a consideration and basis for choice by the decisionmakers in the legislative as well as the executive branch. Id. For decades, the Corps has recognized that Lake Lanier should be operated for water supply. Nothing in the Corps' November 19, 2009 Notice suggests that the Corps has altered that view. Instead, the Notice suggests that the Corps is altering the scope of the EIS merely in reaction to the July 17, 2009 ruling. Since the NEPA regulations instruct the Corps to consider alternatives that are beyond its authority, a federal district court ruling that the Corps lacks authority to operate Lake Lanier for water supply should not alter the scope of the EIS. Moreover, nothing in the July 17, 2009 ruling suggests that the Corps should not consider water supply operations as an alternative in its NEPA analysis for the WCM update. To the contrary, the court tailored its remedy in a manner to allow, and even encourage, the parties to go to Congress to obtain further authorization for water supply. If the Court of Appeals reverses the July 17, 2009 ruling, there should be no legal impediment to the Corps' continuing to operate for water supply. If the July 17, 2009 ruling instead is upheld on appeal, Congress and the President will have no choice but to take up the question of whether or not Lake Lanier will continue to meet the water supply needs of millions of Georgians, and it would benefit Congress, the President, the Corps, and the public for the study of future alternatives to consider the effects on the human environment of operating Lake Lanier for water supply in comparison to not doing so. Thus, under either scenario, it only makes sense for the Corps to study alternatives that would involve the Corps operating to satisfy present and future water supply needs. ---------- 1 Georgia will maintain in its appeal of the July 17, 2009 ruling that the Corps has the authority, without a further act of Congress, to operate Lake Lanier to meet Georgia's current and future municipal and industrial water supply needs. Nothing herein should be interpreted as a waiver of Georgia's legal position. 2 Under appropriate circumstances, the continuation of present operations can serve as a proper "no action" alternative. See American Rivers v. Federal Energy Regulatory Commission, 201 F.3d 1186, 1199 (9th Cir. 2000). In addition, as

discussed in guidance issued by the Council on Environmental Quality: Accordingly, the regulations require the analysis of the no action alternative even if the agency is under a court order or legislative command to act. This analysis provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives. It is also an example of a reasonable alternative outside the jurisdiction of the agency which must be analyzed. Council on Environmental Quality, "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," Question 3, 46 Fed. Reg. 18026, 18027 (1981). 3 The three types of alternatives for the Corps to consider in the scoping process "include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action)." 40 C.F.R. § 1528.25(b)(2008).

Comment ID: 22814
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

Specific Requests for the New WCP We request that the new WCP include remediation measures, including those mentioned above, as opposed to relying solely on augmentation flows as the solution to the system's problems. We hope to see a new WCP that keeps Lanier's water levels as high as possible and minimizes draw-downs in times of severe and extended drought while meeting all legitimate downstream demands. To accomplish this, we request the following of the Corps in its creation of the new WCP: (a) it not use the RIOP as the presumptive basis for the new WCP; (b) it review and analyze: (i) all comments submitted by the Association; and (ii) alternative operations for severe and multi-year drought events to minimize draw-downs of Lake Lanier; and (iii) mitigation factors as alternatives to minimum flows for support of threatened and endangered species, including: (1) remediating the Apalachicola River channel, (2) modifying or closing flows in the Chipola Cutoff, and (3) modifying or closing Sikes Cut; and (iv) alternatives to the following provisions of the RIOP: (1) required minimum flows of 5,000/4,500 cfs and existing trigger criteria, (2) prescribed storage/release thresholds, (3) determining minimum flows based on composite storage zones and "basin inflow," (4) rise rates and fall rates, (5) minimum seasonal flows and begin/end dates (e.g., for spring spawning), and (6) percent of Basin Inflow available for storage; and

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Comment ID: 22716
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

C. Review of Alternatives NEPA requires the Corps to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."s The evaluation of alternatives is "the heart of the environmental impact statement." The Corps must "rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 1. Alternative Plans and/or Action Zones. The Corps should review and consider a full range of alternatives to the WCM, including alternative operating plans and/or action zones that differ from the "existing" operations, as provided by the 1989 draft WCP, the sportfish SOP, and the current interim operating plans. Although the current NOr indicates the Corps' intent to revise the WCMs to account for the Court's decisions regarding operation of Buford Dam for water supply, it also implies that "all other aspects" of the WCM, as described in the 2008 NOI, will remain the same. A failure to fully analyze, review and reconsider all elements of the WCM would be inconsistent with the Court's decision in the Phase 1 Order. In particular, the Corps should review alternatives to maintaining reservoir levels for recreation and/ or sportfish management,

especially during seasons that are critical for species and habitat downstream. In considering alternative plans, the Corps must assume the entire conservation storage pools of the ACF reservoirs are available, and then, in practice, must ensure the full pools are available for Congressionally authorized purposes.

Comment ID: 22723
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

As part of its NEPA analysis, the Corps must recognize the significance of the Apalachicola River and Bay ecosystems and the special protections afforded these ecosystems by the State of Florida. In addition, the Corps must evaluate the direct, indirect and cumulative impacts to the Apalachicola River and Bay ecosystems, including those listed below.

4. Specific Impacts to Be Evaluated.
a. Specific to Apalachicola River Impacts.
b. Specific to Apalachicola Bay Impacts.
c. Cumulative Impacts.

Comment ID: 22635
Author Name: Cox, Lesley
Organization:

The EIS for the Water Control Manual must include the fresh water needs of the Apalachicola River, the swamps, and Bay.

Comment ID: 22653
Author Name: Dunlap, Kit
Organization: Atlanta Regional Com

The Corps should provide an assessment of all reasonable alternatives to the proposed action.

The following alternatives should be included in the Corps' analysis to fully inform the public and the Congress: 1) continued operation at current water supply levels and 2) operation at the 2035 water supply levels contained in the Water Supply and Water Conservation Plan adopted by the Metropolitan North Georgia Water Planning District. A copy of this plan is enclosed along with the District's Wastewater and Watershed Plans. These alternatives along with the Corps' proposed revision alternative will provide a reasonable range of alternatives to include in the EIS.

The Corps' hands are not tied by Judge Magnuson's order or by any other limitations on its current authority, to look at reasonable alternatives. NEPA requires all federal agencies to "[r]igorously explore and objectively evaluate all reasonable alternatives" to the proposed action, including alternatives that are "not within the jurisdiction of the lead agency." 40 C.F.R. § 1502.14. Thus, NEPA mandates that the Corps consider "all reasonable alternatives," even if they exceed the Corps' current authority. See, e.g., Natural Resources Defense Council v. Morton, 458 F.2d 827, 837

(D.C. Cir. 1972) ("The mere fact that an alternative requires legislative implementation does not automatically establish it as beyond the domain of what is required for discussion, particularly since NEPA was intended to provide a basis for consideration and choice by the decisionmakers in the legislative as well as the executive branch.").

Comment ID: 22815
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

Finally, we also want to emphasize the need for the Corps to consider the ongoing Federal Energy Regulatory Commission (FERC) relicensing of the Bartlett's Ferry facility and the operations of other non-Corps facilities during the Water Control Manual update. Notably, some 60,000 acre-feet of storage is available in Lake Harding, which could provide roughly 1,000 cfs of water for 40 or more days. One alternative that the Corps ought to consider is the integration of non-Corps, federally-licensed reservoirs into a meaningful drought contingency plan.

Comment ID: 22887
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

The U.S. Army Corps of Engineers' (the "Corps") EIS consideration must include alternatives, such as operations for water supply, even if they are deemed to exceed the agency's jurisdiction. 40 C.F.R. § 1502.14(c). The EIS is required to include alternatives that exceed the Corps' current authority because this information may be useful to the President, to Congress, and to the pUblic in shaping policy on a larger scale. See Natural Res. Defense Council, Inc. v. Morton, 458 F.2d 827, 836-37 (D.C. Cir. 1972). We set forth in this comment various alternatives which require study by the Corps deemed necessary for compliance with the National Environmental Policy Act ("NEPA").

Comment ID: 22892
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

In sum, many alternative not presently presented in the EIS process, or purposefully omitted such as water supply, deserve and demand study by the Corps if it is to fulfill its NEPA responsibilities

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Comment ID: 22891
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

2. Alternatives Required by NEPA to be Considered As the Corps is certainly aware, the authority for water sup'ply from Lake Lanier is currently the subject of litigation. Although a July 17, 2009 decision 10f the U.S. District Court for the Middle District of Florida (Magnuson, J.), sitting as a Multidistrict Litigation ("MDL") Court, determined that water supply was not authorized for the rel~ervoir, that decision is currently under appeal to the U.S. Court of Appeals for the Eleventh Circuit. Gwinnett County maintains that it is entitled to water supply from the reservbir under multiple theories,

some I of which were not addressed by the Court. Thus, GWinnet~ County challenges the Corps' decision to omit water supply study in the current EIS pr0gess. See Notice of Intent To Revise Scope of Draft Environmental Impact Statement for Updating the Water Control Manuals for the Apalachicola-Chattahoochee-Flint River ~asin To Account for Federal District Court Ruling, 74 Fed. Reg. 59,965, 59,966 (Nov. 1/9,2009). Given the requirement that the Corps study alternatives e~en where they exceed its jurisdiction, 40 C.F.R. § 1502.14(c), to omit water supply from consideration, especially given the historical usage of Lake Lanier for this purpose, is a serious flaw in the EIS process which would warrant vacatur if perpetuated. At minimum then, the Corps should study whether and to what extent water supply impacts reservoir operations at various levels to accommodate whatever ruling may ultimately issue in the pending litigation. We would support a Corps' EIS for the Water Control Plan for the ACF Basin which includes water supply at the current levels as one alternative. Other water supply alternatives which should be studied would be what the Corps specified in its public notice-water supply being provided to Buford and Gainesville (10 mgd) with the off-peak flow at 600efs-as well as water supply being authorized at the level of yield for the year 2035 found in the Metropolitan North Georgia Water Planning District's Water Conservation and water Supply Plan of 2009. We believe that studying all of these alternatives would inform the Corps as to possible outcomes of the appeal of the MDL Court's JUly 17, 2009 Order. In addition we believe that being informed as to these alternatives would position the Corps to embrace not only any litigation outcome, but also any negotiated water allocation that the three states might agree to, or, any authorization for water supply use from the reservoirs that might be approved by the United States Congress. In our opinion to do otherwise is wasteful and does not prepare the Corps for any outcome other than water supply not being an authorized purpose for Buford Dam and Lake Lanier, and violatesNEPA for failure to consider all reasonable alternatives, regardless of whether they are deemed currently within the scope of the Corps' jurisdiction.

Comment ID: 22764
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

A. The Draft EIS Must Rigorously Explore and Objectively Evaluate All Reasonable Alternatives The Draft EIS must "[r]igorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14(a) (emphasis added). This requires a "thorough consideration of all appropriate methods of accomplishing the aim of the action" and an "intense consideration of other more ecologically sound courses of action." Environmental Defense Fund, Inc. v. Corps of Engineers of U.S. Army, 492 F.2d 1123, 1135 (5th Cir. 1974) (emphasis added). Like all EISs, the Draft EIS must "[i]nclude reasonable alternatives not within the jurisdiction of the lead agency."1 40 C.F.R. § 1502.14(c). A viable but unexamined alternative will render the Draft EIS inadequate. See, e.g. Muckleshoot Indian Tribe v. U.S. Forest Service, 177 F.3d 800, 814 (9th Cir. 1999). The Draft EIS also must explore an appropriate range of alternatives. Because the nature and scope of the proposed action (revision of the Water Control Manuals) will have significant, basin-wide impacts, the Draft EIS must examine a broad range of alternatives. Alaska Wilderness Recreation and Tourism v. Morrison, 67 F.3d 723, 729 (9th Cir. 1995) (the range of alternatives that must be considered is determined by the nature and scope of the proposed action, and the greater the impacts and scope of the proposed action, the greater the range of alternatives that must be considered); see Sierra Club v. Espy, 38 F.3d 792, 803 (5th Cir. 1994) (the range of alternatives that must be considered in an environmental assessment decreases as the environmental impact of the proposed action becomes less and less substantial). The range of alternatives considered is not sufficient if each alternative has the same end result. State of California v. Block, 690 F.2d 753, 767 (9th Cir. 1982) (holding that an inadequate range of alternatives was considered where the end result of all eight alternatives evaluated was development of a substantial portion of wilderness).

Comment ID: 22765
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. The Recommended Alternative Must Protect And Restore The Ecological Health Of The Apalachicola River and Bay And The Entire ACF System And Comply With Environmental Protection Laws The alternative recommended by the Draft EIS must comply with the national water resources policy established by Congress in 2007, the longstanding water resources federal objective to enhance the environment, and the full suite of federal laws and policies designed to protect the environment. In 2007, Congress established a new national policy that was immediately applicable to all water resources projects. Of particular importance to the alternatives analysis in the Draft EIS is the new requirement that "all water resources projects" shall "protect[] and restor[e] the functions of natural systems and mitigate[e] any unavoidable damage to natural systems." 33 U.S.C 1962-3 (established by § 2031(a) of the Water Resources Development Act of 2007). Enhancement of the environment has been an important federal objective for water resources programs for decades. Corps regulations in place since 1980 state that: "Laws, executive orders, and national policies promulgated in the past decade require that the quality of the environment be protected and, where possible, enhanced as the nation grows. . . . Enhancement of the environment is an objective of Federal water resource programs to be considered in the planning, design, construction, and operation and maintenance of projects. Opportunities for enhancement of the environment are sought through each of the above phases of project development. Specific considerations may include, but are not limited to, actions to preserve or enhance critical habitat for fish and wildlife; maintain or enhance water quality; improve streamflow; preservation and restoration of certain cultural resources, and the preservation or creation of wetlands. 33 C.F.R. § 236.4. (emphasis added).

Comment ID: 22767
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

C. Reasonable Alternatives That Must Be Considered Apalachicola Riverkeeper urges the Corps to fully and comprehensively consider an alternative that manages the ACF system to ensure the maintenance of ecologically sound instream flows that will protect and restore the chemical, physical, and biological integrity of the Apalachicola River and its floodplain, the Chattahoochee River, the Flint River, and the Apalachicola Bay; and will recover threatened and endangered species and species at risk in those waters.

Comment ID: 22797
Author Name: Tucker, Sandy
Organization: U.S. FISH AND WILDLIFE SERVICE

The U.S. Fish and Wildlife Service (Service) has reviewed the United States Army Corps of Engineers' (Corps) November 19,2009, Notice of Intent (NOI). The purpose of the notice is to revise the scope of the Draft Environmental Impact Statement (DEIS) for updating the Water Control Manuals (WCM) for the Apalachicola-Chattahoochee-Flint (ACF) River Basin based on the recent Federal District Court ruling. These comments represent input from our Alabama, Florida, and Georgia Ecological Services Field Offices. We submit the following additional comments under

the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; l6U.S.C. 661 etseq.). Our previous comments of November 21, 2008, are still relevant and should be addressed under this revised scope. In addition, alternative sources of water supply for the Atlanta metro area need to be considered including the anticipated short and long-term impacts to surface and groundwater resources as a consequence of the revised scope. We recommend that the Corps' alternatives analysis include the cumulative effects of the proposed action and the expected proliferation of multiple surface and groundwater projects that may also affect the operation of the federal reservoirs and ultimately flows to the Apalachicola River. A prioritized list of reservoir and groundwater projects can be obtained from the Water Contingency Planning Task Force, formed by Governor Purdue in October 2009. The Service appreciates the opportunity to comment and looks forward to continued participation as the project moves forward.

SCHEDULE

Comment ID: 22676
Author Name: Tilghman, Sidell
Organization:

And please get this manual done soon. I mean I am glad you all are taking more comments after the July ruling but that was 4 months ago. Thank you for your time.

SCOPING/PUBLIC INVOLVEMENT

Comment ID: 22693
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

These comments are submitted by J. Brian Atkins, Director of the Alabama Office of Water Resources, on behalf of the State of Alabama. These comments are submitted through the "Comments and Contact Information Form" found on the Corps' webpage relating to the "Master Water Control Manual Update Environmental Impact Statement for the ApalachicolaChattahoocheeFlint River Basin" (http://www.sam.usace.army.mil/pa/acfwcm/mail_list.htm). The State of Alabama notes that the form requires a commenting party to choose one, and only one, "Resource Area" to which submitted comments are related. This limitation is, or could be, unduly restrictive, as many comments submitted through this form will likely relate to more than one "Resource Area." In fact, the comments submitted by the State of Alabama relate in some way to most, if not all, of the "Resource Area" categories listed on the Corps' website. The State of Alabama is submitting these comments under the "Water Management" category, as it is the broadest and most inclusive category. However, the State of Alabama in no way intends to limit its comments to any single, specific "Resource Area," and expressly states that its comments relate to each and every "Resource Area" relevant to the substance of the submitted comments. The State of Alabama also reserves the right to submit additional comments regarding the scoping process for the ACF Manual update.

Comment ID: 22855
Author Name: Atkins, Brian

Organization: ALABAMA OFFICE OF WATER RESOURCES

These comments are submitted by J. Brian Atkins, Director of the Alabama Office of Water Resources, on behalf of the State of Alabama. These comments are submitted through the "Comments and Contact Information Form" found on the Corps' webpage relating to the "Master Water Control Manual Update Environmental Impact Statement for the Apalachicola-Chattahoochee-Flint River Basin" (http://www.sam.usace.army.mil/pa/acf-wcm/mail_list.htm). The State of Alabama notes that the form requires a commenting party to choose one, and only one, "Resource Area" to which submitted comments are related. This limitation is, or could be, unduly restrictive, as many comments submitted through this form will likely relate to more than one "Resource Area." In fact, the comments submitted by the State of Alabama relate in some way to most, if not all, of the "Resource Area" categories listed on the Corps' website. The State of Alabama is submitting these comments under the "Water Management" category, as it is the broadest and most inclusive category. However, the State of Alabama in no way intends to limit its comments to any single, specific "Resource Area," and expressly states that its comments relate to each and every "Resource Area" relevant to the substance of the submitted comments. The State of Alabama also reserves the right to submit additional comments regarding the scoping process for the ACF Manual update.

Comment ID: 22867
Author Name: Bannister, Charles
Organization: GWINNETT COUNTY COMMISSION

In response to the request for comments on the scope of the Environmental Impact Statement for the Apalachicola-Chattahoochee-Flint (ACF) Water Control Manual, enclosed is a letter from the Acting Director of the Gwinnett County Department of Water Resources which lays out in detail Gwinnett County's support for a broader scope than that proposed.

Comment ID: 22792
Author Name: Barnes, John
Organization: GA EPD

I. Prior Scoping Comments and Basis for Additional Comments The Corps invited comments on the scope of the EIS for the WCM update on September 19, 2008. In a letter dated November 21 , 2008, the State of Georgia provided the Corps with comments (the "2008 Comment Letter"). In the 2008 Comment Letter, Georgia comments that neither the Interim Operations Plan nor any revision of it should be the presumptive mode of operations going forward. Georgia also comments that the Corps should not limit its consideration to only those alternatives that the Corps believes are entirely within its current authority. Georgia presents in the 2008 Comment Letter several alternatives that the Corps should consider in evaluating its potential future operations, including reallocation of storage for water supply, rule curve changes, other methods of managing its reservoirs, and non-operational alternatives to repair or mitigate problems created by channel degradation and other problems downstream. The 2008 Comment Letter also addresses a number of discrepancies between the assumptions made in the Corps' HEC-ResSim and HEC-5 modeling platforms. The points that Georgia raises in the 2008 Comment Letter remain applicable. U.S. Army Corps of Engineers, Mobile District Comments on Revised Scoping of EIS for WCM Update December 31 , 2009 Page 2 On November 19, 2009, the Corps published notice of its intent to revise the scope of the EIS for the WCM update in response to the July 17, 2009 ruling of the United States District Court in In re rri State Water Rights Litigation, Civil Action No. 3:07-md-1 (M.D. Fla.).

In the July 17, 2009 ruling, the court held that water supply is not an authorized purpose of Lake Lanier and that the Corps' current operations at Lake Lanier to support water supply exceed the Corps' authority under the Water Supply Act of 1958. The July 17, 2009 ruling did not address the issue of whether the Corps should include water supply operations within one or more of the alternatives to be studied in the EIS for the WCM update. In response to July 17, 2009 ruling, the Corps has stated that it will revise the scope of the EIS for the WCM update. Specifically, the Corps stated that, in preparing the new WCM, it "will consider only operations that are within existing authority." The Corps also stated that, at least absent further congressional authorization, it "will not continue to accommodate the present level of [water supply] withdrawals beyond July 2012, nor will the Corps consider a reallocation of storage for water supply as part of the process for updating the ACF water control plans and manuals." Finally, the Corps indicated that, with the exception of water supply operations, it will evaluate only "present circumstances as part of its EIS." The Corps' November 19, 2009 Notice states, "Any comments previously submitted will be reviewed and addressed in any scoping revisions. There is no need to resubmit comments previously provided during the 2008 scoping effort unless in your opinion the [July 17, 2009 ruling] necessitates additional comments from you." Accordingly, Georgia will not repeat the comments that it previously provided in the 2008 Comment Letter and trusts that the Corps will give those prior comments due consideration. These additional comments of the State of Georgia are not necessitated by the July 17, 2009 ruling itself but by the Corps' alteration of the scope of the EIS in response to the July 17, 2009 ruling. As set forth in greater detail below, the revised scope is neither a necessary nor appropriate reaction to the July 17, 2009 ruling. Moreover, the revised scope violates the letter and spirit of NEPA and is contrary to the public interest and common sense.

Comment ID: 22864
Author Name: Barnhorst, Vicki
Organization: LAKE LANIER ASSOCIATION, INC.

Please accept the attached comments from the Lake Lanier Association as part of the scoping process for revisions to the ACF Water Control Manual.

Comment ID: 22666
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

Thank you for the opportunity to comment as part of the Corps of Engineers' ("Corps") revision of the Water Control Plan ("WCP") for the Apalachicola-Chattahoochee-Flint River ("ACF") system. The Lake Lanier Association ("Association") previously submitted scoping comments via its letter of November 20, 2008, a copy of which accompanies this letter. Please consider the contents of this letter in addition to those in our previous correspondence.

Comment ID: 22702
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

The State of Florida ("Florida") submits these comments to the U.S, Army Corps of Engineers ("Corps") pursuant to the

Corps' Notice of Intent ("NOI") to revise the scope of the Environmental lmpact Statement ("EIS") for the revision of the water control manual and plans (collectively "WCM") for the Apalachicola-Chattahoochee-Flint ("ACF") River Basin.' The NOl indicates that the Corps intends to revise the scope of its EIS review of the WCM revision to account for the July 17, 2009 decision by the United States District Court for the Middle District of Florida in Phase 1 of the In re Tri~State Water Rights Litigation, Case No, 3:07-md-01. As a preliminary matter, the following comments address issues appropriate for the scoping stage of the EIS process-namely, a range of alternatives and impacts to be considered - and are not intended to exclusively address the definition or elements of the proposed action - the new WCM- which the Corps must develop consistent with federal law, including the public participation requirements of the Water Resources Development Act ("WRDA") and the Corps' own regulations, Florida reserves the right to further comment on the development and content of the new WCM once properly proposed,

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Comment ID: 22709
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Corps should re-open the scoping process or otherwise seek public comment before finalizing its new critical yield analysis. ... Before finalizing the updated critical yield, the Corps should release its draft critical yield analysis for the ACF Basin, transparently describe the critical yield formula, the underlying data, and its corresponding methodologies and assumptions,' and afford opportunity for public review and comment, either as part of the NEPA scoping process or to satisfy the public participation requirements of the WCM update process, or both.

Comment ID: 22705
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

More so than the scope of the EIS, however, the Phase 1 Order will affect the content of the new WCM. The new WCM must be developed in close coordination with interested stakeholders, the affected public and the three States (Alabama, Georgia and Florida) consistent with the public participation requirements of WRDA, and the Corps' implementing regulations, which require effective public involvement, coordination with affected States, regional and local agencies,' and provision of information to the public.s The current NEPA scoping process-which is limited to the scope of the Corps' EIS-does not satisfy these public participation requirements, and Florida fully expects that the Corps will provide early and sufficient opportunity for public participation in the actual development, revision and content of the WCM for the ACF Basin. Additionally, effective scoping requires a more detailed proposal from the Corps. The Corps will need to allow for additional NEPA review and comment on the "proposed action" -i.e., the content of the WCM-once it is more adequately and properly defined.

Comment ID: 22802
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

The National Park Service (NPS) and Chattahoochee River National Recreation Area (CRNRA) would like to submit the following comments on the planned update to the U.S. Army Corps of Engineers Water Control Manual for Buford Dam.

Comment ID: 22622
Author Name: Gravitt, Ford
Organization: City of Cumming

See attached letter

Comment ID: 22795
Author Name: Gravitt, Ford
Organization: City of Cumming

Please accept this letter as the public comment of the City of Cumming, Georgia, a Georgia Municipal Corporation, regarding the Master Water Control Manual update. The notice sent by Tetra Tech, Inc., was received by the City of Cumming on November 24, 2009. Accordingly, the City offers this response within and pursuant to the forty-five (45) day window for public comment.

Comment ID: 22639
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

I have already submitted UCR's comment letter. For this submission, I am attaching 3 additional documents that go with that letter and its 2 accompanying attachments. These attachments are Water Contingency Planning Task Force PowerPoint (November 23, 2009); Water Contingency Planning Task Force Power Point, Appendix (Nov. 23, 2009); and UCR comment letter to the Water Contingency Planning Task Force. I will submit one more attachment here shortly. Thanks again for your help! Laura

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Comment ID: 22640
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

This is the final installment for UCR's comments on revised scoping for the ACF Water Control Manual. With this attachment, you should (hopefully) have received a letter plus 6 total attachments. Happy Holidays! Laura

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Comment ID: 22866
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

This submission includes our comment letter and 2 attachments (UCR comments on Glades Farm Reservoir & UCR comments on Bear Creek/South Fulton County Reservoir). Under a separate submission, I will include additional

attachments that accompany our comment letter on the revised scoping for the ACF Water Control Manual update. Thanks very much for considering our comments! Laura

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Comment ID: 22811
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

I am writing on behalf of the Upper Chattahoochee Riverkeeper in response to the November 19, 2009 Public Notice published in the Federal Register (FR Doc. E9-27787) concerning the Water Control Manual Update for the Apalachicola-Chattahoochee-Flint ("ACF") River Basin. These comments are supplemental to those we submitted on November 21, 2008 in response to the September 19, 2008 Public Notice (FR Doc. E8-21912).

Upper Chattahoochee Riverkeeper ("UCR") is a non-profit environmental advocacy organization dedicated to the protection and restoration of the Chattahoochee River, its tributaries, and watershed. UCR represents more than 5,000 members who use and enjoy the river and its resources and depend on the Chattahoochee River and its lakes as a source of drinking water and for recreation.

In our November 2008 letter, our comments focused primarily on the operation of Buford Dam and its impacts on water quality, recreation, fishing, and water supply downstream from the Lake Lanier project on the Chattahoochee River. In light of the July 17, 2009 federal judicial ruling significantly curtailing metro Atlanta's access to Lake Lanier for water supply, we make the following additional comments.

Comment ID: 22662
Author Name: Houston, Billy
Organization: Tri Rivers Waterways Development Assoc

The comments of Tri Rivers Waterway Development Association are hereby submitted. Hard copies will follow by overnight delivery to Tetra Tech, 107 Saint Francis Street, Suite 1403, Mobile, Alabama 36602-9986, per the Corps' instructions.

Comment ID: 22788
Author Name: Houston, Billy
Organization: Tri Rivers Waterways Development Assoc

This letter provides the comments of Tri Rivers Waterway Development Association ("TRWDA") regarding efforts of the Corps of Engineers ("Corps") to revise the scope of the Environmental Impact Statement ("EIS") for revisions to the water control manuals for the Apalachicola-Chattahoochee-Flint ("ACF") River Basin. See 74 Fed. Reg. 59,965 (Nov. 19, 2009). According to the Corps: Any comments previously submitted will be reviewed and addressed in any scoping revisions. There is no need to resubmit comments previously provided during the 2008 scoping effort, unless in your opinion the abovecited district court decision necessitates additional comments from you. Id. at 59,966. TRWDA submitted comments dated November 21, 2008, and we have enclosed an additional copy of those comments which are hereby incorporated by reference. This letter provides additional comments in light of Judge Magnuson's July 17,

2009, memorandum and order in the Tri-State Water Rights litigation. In re Tri-State Water Rights Litigation, Case No. 3:07-md-01 (M.D. Fla. July 17, 2009). This letter hereinafter refers to the Court's memorandum and order as "Court Order."

Comment ID: 22889
Author Name: Houston, Billy
Organization: Tri Rivers Waterways Development Assoc

The comments of Tri Rivers Waterway Development Association are hereby submitted. Hard copies will follow by overnight delivery to Tetra Tech, 107 Saint Francis Street, Suite 1403, Mobile, Alabama 36602-9986, per the Corps' instructions.

Comment ID: 22627
Author Name: Kerr, Randall
Organization: AMEC Earth and Environmental

Just want to be added to the mailing list. Thank you.

Comment ID: 22869
Author Name: Owens, Tony
Organization: MEADWESTVACO PACKAGING RESOURCES GROUP

On February 22, 2008, the U.S. Army Corps of Engineers ("Corps") published in the Federal Register a notice of intent ("NOI") to prepare an environmental impact statement ("EIS") for the proposed implementation of the updated Apalachicola- Chattahoochee-Flint River Basin ("ACF") Water Control Manual ("WCM").1 On September 19, 2008, the Corps supplemented the NOI in the Federal Register and invited the public to participate in the Corps' EIS scoping process.2 To account for Judge Paul A. Magnusson's July 17, 2009 memorandum and order in the Tri-State Water Rights litigation (hereinafter the "Order"),3 the Corps noticed its intent to revise the scope of the draft EIS on November 19, 2009.4 In response to the Corps' 2008 EIS scoping process for the ACF WCM, MeadWestvaco ("MWV") submitted comments to the Corps dated November 21, 2008. We have enclosed an additional copy of those comments, which are hereby incorporated by reference. This letter presents MWV's additional input regarding the issues which it believes should be addressed in the EIS to be prepared by the Corps for the ACF WCM update in light of Judge Magnusson's Order. MWV is a member of the Tri Rivers Waterway Development Association ("TRWDA") and agrees with the comments submitted by TRWDA on its behalf. In addition, MWV's more specific comments follow. Thank you for allowing MWV to submit these comments and for your consideration.

Comment ID: 22874
Author Name: Owens, Tony
Organization: MEADWESTVACO PACKAGING RESOURCES GROUP

MWV recognizes that developing or revising a water control plan "is a lengthy process that requires the Corps to comply

with significant regulations and procedures"28 involving public involvement and agency coordination. In developing a water control plan for West Point, the Corps will need to involve the general public by holding meetings and providing documentation that "explains the recommended water control plan . . . and provides technical information explaining the basis for the recommendation."29 Additionally, regulations require that the water control plan for West Point (or any other reservoir in the ACF River Basin) "be developed in concert with all basin interests which are or could be impacted by or have an influence on project regulation," and that the Corps develop and execute its water control plans in "[c]lose coordination . . . with all appropriate international, Federal, State, regional and local agencies . . . ."30 The purpose of the requirement for public involvement and close coordination with affected state and local agencies is to ensure that the Corps, when developing a water control plan, considers and evaluates the authorized purposes of its projects and other interests in order to "secure the maximum benefits to river interests."31 Should the Corps fail to consider all authorized river interests in the formulation of a water control plan, its action may be contrary to law.32 MWV understands that while the Corps may not be barred from deviating from the operating requirements of a water control plan for West Point, water control plans are binding on the Corps and may "serve as a basis for judicial review."33

Comment ID: 22854
Author Name: Stevens, Pat
Organization: Metropolitan North Georgia Water Planning District

The following comments from the Metropolitan North Georgia Water Planning District along with copies of the three District Plans were delivered yesterday, Dec 30, 2009, to Tetra Tech at the Mobile address in the Federal Register.

Comment ID: 22851
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Please accept attached comments on the revised scoping for the ACF Water Control Manual.

Comment ID: 22758
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper appreciates the opportunity to comment on the above-referenced notice of intent regarding the Draft Environmental Impact Statement for Updating the Water Control Manuals for the Apalachicola-Chattahoochee-Flint River Basin (the "Draft EIS"). These comments are in addition to the scoping comments submitted on the Draft EIS by the Apalachicola Riverkeeper on March 15, 2009.

Comment ID: 22763
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

The Draft EIS must play an important role in the decision making process and is not to be used to "rationalize or justify

decisions already made." 40 C.F.R. § 1502.5. To do this, the Draft EIS must ensure that high quality environmental information is available to public officials and citizens before decisions are made and actions are taken so that information can help the Corps make decisions regarding the Water Control Manuals that are based on an understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. 40 C.F.R. §§ 1502.1, 1501.2 (emphasis added).

Comment ID: 22845
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

III. The Draft EIS Should Be Subjected To Independent Peer Review Apalachicola Riverkeeper requests a peer review by the National Academy of Sciences for the Draft EIS and Water Control Manuals for the ACF Basin pursuant to 33 U.S.C. § 2343(a)(3)(A)(iii). The Corps' plans for water control management for the ACF are clearly controversial as defined by the statute. There "is a significant public dispute as to the size, nature, or effects of the project" and "there is a significant public dispute as to the economic or environmental costs or benefits of the project." Indeed, few projects are as controversial as the Corps' decision regarding water control management within the ACF Basin. Apalachicola Riverkeeper requests that the Corps charge the National Academy of Sciences with reviewing and assessing, among other things: (1) The instream flows needed to protect and restore the chemical, physical, and biological integrity of the Apalachicola River and its floodplain, the Chattahoochee River, the Flint River, and the Apalachicola Bay; and the instream flows needed to recover threatened and endangered species and species at risk in those waters. (2) The implications for the ecological integrity and health of the Apalachicola River and its floodplain, the Chattahoochee River, the Flint River, and the Apalachicola Bay under the water control plans being evaluated by the Corps; (3) The health and viability of the fish and wildlife resources within the Apalachicola River and its floodplain, the Chattahoochee River, the Flint River, and the Apalachicola Bay under the water control plans being evaluated by the Corps, including the flows and timing of those flows needed to ensure the health and viability of these fish and wildlife resources; (4) The effects on species listed as threatened or endangered under the federal Endangered Species Act, and the effects on Endangered Species Act designated critical habitat within the Apalachicola River and its floodplain under the water control plans being evaluated by the Corps; and (5) The effects of the various water control plans on the flood protection values of a healthy Apalachicola River floodplain.

NAVIGATION

Comment ID: 22696
Author Name: Houston, Billy
Organization: Tri Rivers Waterways Development Assoc

2. The Corps Must Support Navigation.

a. The Corps Is Obligated to Operate the ACF Reservoirs to Support Navigation.

Application of the correct methodology to determine the Congressionally authorized purposes of the ACF River System yields the inescapable conclusion that navigation is a primary authorized purpose of all five of the Corps' ACF reservoirs. TRWDA described the lawfully authorized project purposes for the remaining four reservoirs in the ACF River System in its previous comments and reiterates them here:

o West Point: Flood control, hydropower, fish and wildlife recreation, general recreation, and NAVIGATION. Sources: Pub. L. No. 87-874, 76 Stat. 1173, 1180 (1962) (referencing H.R. Doc. No. 87-570 (1962)).

o Walter F. George: NAVIGATION and hydropower. Sources: Pub. L. No. 79-14, 59 Stat. 10, 11, 17 (1945) (referencing H.R. Doc. No. 76-342 (1939)); Pub. L. No. 79-525 (referencing H.R. Doc. 80-300); Resolution of House Public Works Committee (May 19, 1953).

o George W. Andrews: NAVIGATION. Sources: Pub. L. No. 79-14; Pub. L. No. 79-525; Resolution of House Public Works Committee (May 19, 1953).

o Jim Woodruff: NAVIGATION and hydropower. Sources: Pub. L. No. 79-14; Pub. L. No. 79-525.

The Corps cannot lawfully rely on its own past failure to maintain the ACF River System for navigation as an excuse not to operate the reservoirs in a manner that supports navigation today and in the future. The Corps' failure to maintain the navigation channel is not some externality beyond the Corps' control. Rather, it is the Corps' own statutory responsibility to do so. Therefore, in accordance with the Court Order, the Corps should revise the scope of its EIS to ensure that reliable, year round navigation on the ACF system is a required alternative and is fully provided for in the revision of its water control plans and manuals. The Corps may not consider any alternative that does not fully account for navigation.

b. The Corps Has Adequate Navigation Maintenance Authority Regardless of State Approval.

The Corps cannot lawfully blame its failure to maintain the ACF River System for navigation on the action by the Florida Department of Environmental Protection ("FDEP") to deny state permit approval more than four years ago. TRWDA has engaged FDEP staff as well as environmental interests to explore the necessity of resuming maintenance dredging. Based on those discussions and the knowledge and experience of TRWDA members, we remain convinced that there are appropriate and environmentally responsible methods to perform all the tasks necessary to maintain a safe and reliable navigation channel. However, the Corps must exercise its mandated responsibilities. Unfortunately, the Corps has undertaken no apparent effort to identify navigation maintenance options which may be agreeable to FDEP and

other interests. TRWDA urges the Corps to restore safe and reliable commercial navigation in the ACF River System.

In developing a plan for navigation maintenance, TRWDA urges the Corps to work cooperatively with FDEP and other appropriate stakeholders, including navigation interests, environmental interests, and local governments. However, regardless of whether FDEP approval is obtained, the Corps has sufficient federal preemptive authority to maintain the federal navigation project, including specifically the ACF River System, regardless of state objections. TRWDA has previously explained the legal basis for the Corps' authority in a petition to maintain the ACF navigation project, which TRWDA submitted on March 2, 2006, and which these comments shall reference as the "404(t) Petition." A copy of that petition is enclosed and hereby incorporated in these comments.

TRWDA's petition focused on Sections 404(t) and 511(a) of the Clean Water Act ("CWA"). As recently as November of 2009, in the context of the Corps' efforts to dredge the Delaware River over the objections of the State of Delaware and others, the Corps acknowledged that those statutes and others authorize the Corps to conduct maintenance dredging for a federal navigation project over the objection of a state. According to the Corps, "Congress has exempted certain Federal construction projects from regulation under the CWA, thereby retaining for itself the authority to determine whether such projects should proceed." Brief for Federal Defendants at 21, State of Del. Dep't of Nat. Res. & Envtl. Control, Case No. 09-cv-821-SLR (D. Del. filed Nov. 20, 2009) (hereinafter "Corps' Brief").

Generally, the federal government is immune from state regulation. However, the CWA waives sovereign immunity for certain limited purposes under the CWA, which means some federal actions may be subject to state water quality regulation. Corps' Brief at 24-25. However, this waiver of sovereign immunity is limited. The Corps' Brief correctly explains that the CWA "'shall not be construed as . . . affecting or impairing the authority of the Secretary of the Army . . . to maintain navigation.'" Corps' Brief at 27 (quoting CWA § 511(a), as codified at 33 U.S.C. § 1371(a)). The intent of Section 511(a) was to ensure the Corps "has the authority to proceed with measures necessary to maintain navigation" in the event "State requirements relating to the disposal of dredged spoil may not be compatible with the responsibility of the Corps of Engineers to maintain navigation." 404(t) Petition at 19 (quoting remarks of Rep. Ray Roberts, 123 Cong. Rec. 38,970 (1977)).

CWA Section 404 specifically governs discharges of dredged or fill materials into areas subject to CWA jurisdiction. Section 404 generally authorizes states to "'control the discharge of dredged or fill material in any portion of the navigable waters within the jurisdiction of such State, including any activity of any Federal agency.'" Corps' Brief at 25 (quoting CWA 404(t), as codified at 33 U.S.C. § 1344(t)). States are authorized to add substantive and procedural requirements. Id. However, Section 404(t) also includes the following qualification: "'This section shall not be construed as affecting or impairing the authority of the Secretary to maintain navigation.'" Corps' Brief at 25 (quoting CWA 404(t), as codified at 33 U.S.C. § 1344(t)).

The Corps also has stated that it may engage in dredging on the Delaware River notwithstanding Delaware's objection pursuant to the Coastal Zone Management Act ("CZMA"). According to the Corps, a direct action by a federal agency (as opposed to a private action taking place pursuant to a federal permit) "may proceed even if a state objects to a Federal consistency determination." Corps' Brief at 36 (citing 15 C.F.R. § 930.43(d)). Therefore, Delaware was "incorrect as a matter of law" that the Corps' dredging activities required state concurrence. Id. Thus, the Corps has amply demonstrated, and TRWDA agrees, that a state's refusal to concur under the CZMA is no bar to the Corps' maintenance of a federal navigation project, including the navigation channel in the ACF river basin.

The Corps has sufficient federal authority to maintain the navigation channel in the ACF river basin without regard to a state's action. The Corps' exercise of this navigation maintenance responsibility should be included in the scope of its EIS and fully accounted for in any revisions of its water control manuals for the ACF river basin.

Comment ID: 22686
Author Name: Moorer, Tom
Organization: SOUTHERN COMPANY SERVICES

The U.S. Army Corps of Engineers ("Corps") has solicited public comments regarding its decision to revise the scope of issues it will consider in the preparation of an Environmental Impact Statement ("EIS") as the Corps updates its water control plans and manuals for the Apalachicola-Chattahoochee-Flint ("ACF") River Basin. 74 Fed. Reg. 59,965 (Nov. 19, 2009). This letter provides the comments of the Southern Nuclear Operating Company ("Southern Nuclear").

The Corps' November 19, 2009, Federal Register notice provides that the Corps is updating the water control plans and manuals for the ACF River Basin. According to the Corps:

This effort will include an updated Master Water Control Manual, containing plans for the coordinated operation of the five Federal reservoirs within the ACF basin as a system, and updated Water Control Manuals for each of those reservoirs, containing plans for the operation of those projects for their authorized purposes. Collectively, these documents may be referred to as the "water control plans and manuals," "water control manuals," or simply as the "Master Water Control Manual," which includes the project-specific water control manuals. Id. at 59,966.

The Corps' notice further explains that the Corps will revise the scope of its EIS and water control manual updates in three key respects in light of Judge Magnuson's July 17, 2009, memorandum and order in the case In re: Tri-State Water Rights Litigation (M.D. Fla. No. 3:07-md-01): (1) In updating the ACF water control plans and manuals, the Corps will consider only operations that are within existing authority; (2) The updated plans and manuals will reflect that water supply withdrawals from Lake Lanier will be limited to the amounts authorized by relocation agreements with the Cities of Gainesville and Buford, Georgia; and (3) The updated plans and manuals will reflect that "the required offpeak flow will be 600 cfs [at Buford Dam]."

Southern Nuclear agrees with the Corps' decision to revise the scope of its EIS and the issues it will consider in revising the ACF water control plans and manuals to include only operations within the Corps' existing authority. As Judge Magnuson's July 17, 2009, memorandum and order recognizes, navigation was one of the primary congressionally authorized purposes of Lake Lanier and the ACF River Basin system. The Corps' revised water control plans and manuals, in order to be consistent with Judge Magnuson's July 17, 2009, order, must also provide for both releases of storage to support navigation and the proper operation and maintenance of the navigation channel.

Southern Nuclear reiterates the importance of the Corps providing navigation support for businesses and industries on the Chattahoochee River, both for transportation purposes and for meeting their water elevation and flow needs. Flows of 2,000 cfs and a river stage of 76 feet mean sea level are critical for the continued safe and reliable operation of manufacturing facilities in the vicinity of Columbia, Alabama, as well as Southern Nuclear's Farley Nuclear Plant. Therefore, Southern Nuclear urges the Corps to ensure the scope of its EIS fully evaluates the need for the Corps to provide for the continuation of flows and elevations at those levels.

The Corps' November 19, 2009, notice also states that the Corps intends to include "action zones," like those included in its draft 1989 Water Control Plan, in any revised water control plans and manuals. Southern Nuclear has no objection to the use of "action zones" as long as those zones adequately provide for the ACF system's flood control, navigation, and hydropower authorized purposes. Consistent with Judge Magnuson's July 17, 2009, memorandum and order, other unauthorized purposes, including water supply and recreation, may not be factored into the Corps' formulation of action zones. Drought contingency operations factored into the development of action zones must also not unduly burden West Point Lake and Walter F. George Lake in favor of excess conservation upstream in Lake Lanier.

The Corps' notice further states that "[w]hen the Corps is not generating hydropower to meet this peak demand, the Corps will not release more than 600 cfs from Buford Dam to support water supply withdrawals." Fed. Reg. at 59,967. Southern Nuclear urges the Corps to clarify that it still has an obligation to release additional water from Lake Lanier's storage during off-peak periods when necessary to meet navigation flow support needs downstream. Nothing in the legislative history of Lake Lanier or the ACF system in general indicates that navigation support was intended to be subordinate to hydropower production. Rather, hydropower and navigation support are co-equal authorized functions of the ACF reservoir system; therefore, they must each be given adequate support by the Corps. As the Corps' original 1959 reservoir regulation manual for Buford Dam recognizes, "[a] storage of 1,049,400 acre-feet between elevations 1,035
and 1,070 [at Buford Dam] has been allocated for power and low-water flow regulation." Apalachicola River Basin, Reservoir Regulation Manual, Buford Reservoir at B-13, ¶ 29 (Dec. 1959). (emphasis added). For this reason, as the Corps' 1991 Buford Dam water control plan states, maintaining the navigation channel sometimes requires "releases from storage in upstream reservoirs considerably in excess of the flow requirements to meet power contract commitments." Apalachicola River Basin, Reservoir Regulation Manual, Buford Reservoir at B7-1, ¶ 7-01 (Feb. 1991) (emphasis added). We urge the Corps to include this requirement in the scope of its EIS and in any revisions of the water control plans and manuals for the ACF Basin.

Thank you for your consideration of these comments. Should you have any questions or if you wish to receive additional information, please contact me at (205) 992-5807 or tcmoorer@southernco.com.

Comment ID: 22875
Author Name: Owens, Tony
Organization: MEADWESTVACO PACKAGING RESOURCES GROUP

4. Revisions to the Manual Must Recognize Navigation as a Primary Project Purpose and Reflect Statutory Intent to Support Downstream Communities. MWV reiterates that a primary purpose of all of the ACF reservoirs is to support navigation, especially between the Gulf of Mexico and the fall line at Columbus, Georgia. Moreover, MWV still believes that the Corps' provision of flow sufficient to support navigation will meet other purposes and legal requirements. Such flows will support industrial and municipal requirements, among them water quality discussed further in Section 3 above. Citing numerous statutes and legislative records, including many Corps documents, Judge Magnusson's Order clearly identified navigation as a primary purpose of the Corps' reservoirs in the ACF River System. Therefore, in accordance with the Order, the Corps should revise the scope of the EIS to ensure that reliable, year-round navigation on the ACF system is a required alternative and is fully provided for in the revision of its water control plans and manuals.

Comment ID: 22827
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. Actions that Must Be Evaluated In The Cumulative Impacts Analysis To comply with the cumulative impact assessment requirements, the Corps must analyze whether and how the proposed alternative management regimes could supplement, aggravate, or intensify the impacts of the following types of past, present, and reasonably foreseeable future actions throughout the entire ACF Basin: •Past navigational dredging activities (with particular emphasis on changes in channel morphology, water levels, and floodplain forests and wetlands);

SOCIOECONOMICS & RECREATION

ECONOMICS AND RECREATION

Comment ID: 22742
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Effects on Apalachicola Bay salinity and nutrient composition and corresponding economic impact to seafood industry.

Comment ID: 22777
Author Name: Emery, Jr, James R.
Organization: TROUP COUNTY BOARD OF COMMISSIONERS

Thank you for the opportunity to comment on the proposed operation of a resource that means EVERYTHING to Troup County. Although Kia Motors' construction of their billion-dollar manufacturing plant has brought a lot of attention to Troup County, the economic benefit of West Point Lake has been estimated at approximately five times the economic benefit of Kia. This is a VERY important issue to us.

Comment ID: 22780
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

Excessive low water levels restrict access and use of the lake for recreational and sport fishing and wildlife purposes. The concept that lake recreational lake use on West Point does not exist in winter months is flawed. The location of the lake and the mild climate in the southern Piedmont allows for recreational use year round. Sailing, boating, fishing (from shoreline and boat) all continue throughout the winter in west Georgia and east Alabama. In fact recreational sailing is often more desirable during winter months than during summer months. Yet low water levels make sailing more dangerous with deep keeled sail boats. The removal of water from the lake hampers these recreational uses. Rapid water fluctuations also reduce the desirability to use the lake.

ENVIRONMENTAL JUSTICE

Comment ID: 22782
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

ADVERSE IMPACTS ON LOWER INCOME AND MONORITY POPULATIONS: There is a large population of lower income and minority populations in the west Georgia and east Alabama area that are adversely impacted by lower lake levels at the West Point project associated with low levels for winter flood storage and flow augmentation downstream in summer months and dry spells. Congress specifically granted an entitlement to the citizens of GA and AL when it authorized the West Point project that provided outstanding shoreline recreational facilities and contemplated a lake

that would be very usable to address recreational needs of the surrounding population. Corps operations until now have adversely impacted these populations. Shoreline recreation in parks becomes less than desirable and attendance drops when lake levels are low and water resources are depleted to support other demands in the system.

Often times the fishing stocks of the lake are used not only for recreation, but are also used for sustenance by lower income and minority users of the lake. Citizens do fish the shores and surface of the water to gather fish for sustenance. When the lake is lowered, access to the lake is hampered restricting shoreline access and the ability to fish for food. Many families utilize the shoreline, recreational facilities for picnics , reunions and social gatherings. When the stored water of the lake is depleted these facilities frequently go from adjoining a desirable water feature to having picnic and recreational areas adjoining mud flats.

Through its operations, the Corps has not managed the resource to address these impacts. Parks have been closed. People can not reach the water with fishing gear when the water of the lake is depleted. The lake becomes an undesirable place to visit and to recreate.

Any contemplation of a a revised or new operations manual must provide for stable, higher lake elevations to satisfy the needs of these populations and this must be studied and understood as required by Executive Order 12898.Such change should put any burden on flood storage or flow augmentation below 632.5 on other lakes and maintain West Point above the recreational impact level.

Comment ID: 22656
Author Name: Timmerberg, Dick
Organization: West Point Lake Coalition

By managing West Point Lake below the recreational impact level of 632.5 MSL, there is an environmental justice impact on the low income and minority populations which rely on the lake for both sustenance and enjoyment. This breach of environmental justice (Executive Order # 12898) has never been studied or acknowledged; however when the recreation impact level is breached, the opportunity to fish and picnic is severely diminished by the amount of exposed and often muddy shorelines limiting access to the water and reducing the enjoyment and use of the recreational amenities, i.e. parks, picnic facilities, and launch ramps.

GENERAL

Comment ID: 22714
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

Finally, Alabama would caution the Corps against basing any operational decisions in the ACF on projections of economic impacts related to reductions in water supply or recreation and opportunities. As the Order makes exceedingly clear, the Corps' authority to operate its projects in the ACF is limited by the enabling legislation for those projects and other federal law. To the extent economic factors exist that are unrelated to the Congressionally authorized purposes of these revisions, Alabama believes they are irrelevant and cannot be considered as a basis for operational changes in the Basin.

Comment ID: 22681
Author Name: Barmeyer, Patricia
Organization: ATLANTA REGIONAL COMMISSION

The Corps Must Consider the Indirect and Cumulative Effects of Its Operations

The EIS must also provide a full evaluation of the effects of the proposed water control plan, along with any "indirect effects" and any "cumulative effects." One effect of operating the plan in the manner proposed by the Revised Notice will be to cause the Water Supply Providers and the State of Georgia to embark on a massive infrastructure program in a futile attempt to replace the storage that is currently provided by Lake Lanier. The environmental, economic, and social costs of this program will be incalculable and the ultimate benefit to Florida and Alabama will be negligible. Furthermore, notwithstanding the enormous damage it will wreak, even such a program cannot provide adequate water to meet all of metro Atlanta's water supply needs, certainly not within the time prescribed by the July 17 Order. Therefore, the EIS should also study the economic and social costs of the massive water supply shortages that will result if water supply is eliminated as a purpose of Lake Lanier. Whether these impacts are considered "indirect" or "cumulative" effects of the proposed action, the EIS must include a thorough assessment of them.

Comment ID: 22798
Author Name: Barnes, John
Organization: GA EPD

Thus, the Corps cannot ignore the enormous environmental, social, and economic costs (footnote 4) that would result from ceasing to provide water supply to the millions of Georgians that have depended on Lake Lanier for decades by merely declaring that its "no action" alternative will not include water supply. It must consider those effects as part of the cumulative impact associated with altering its operations to cut off water supply. Those effects would include, for one, water shortages that would endanger human health, cripple the local and regional economies, and inflict substantial harm on the national economy. They also would include development of alternatives to replace the hundreds of millions of gallons of water that Lake Lanier previously supplied. Those alternatives would involve substantial environmental and economic costs. (footnote 5) ---------- 4 In preparing its EIS, the Corps should consider the degree to which the action may adversely affect, not only endangered species and the natural environment, but also the human environment. 40 C. F. R. § 1508.27(b) (definition of "significantly"). Therefore, effects to public health and safety must be taken into consideration along with other economic and societal effects. Id.; 40 C.F.R. § 1508.14 (definition of "human environment"). 5 A statewide task force of business leaders, elected officials, community representatives, and conservation organizations appointed by Governor Sonny Perdue has estimated that the Atlanta area alone would suffer an economic hit of approximately $26 billion annually if Lake Lanier cannot be operated for water supply and alternatives are not available. The task force concluded that alternatives sufficient to meet the shortfall that would be created by the loss of Lake Lanier would not be available by July 2012, and that the alternatives that might be available after 2012 would cost billions of dollars to construct and implement. Those alternatives would involve adverse environmental impacts in addition to the economic costs. The report of the task force is available online at http://gov.georgia.gov/00/channelmodifieddate/O,2096,78006749154453222,OO.html.

Comment ID: 22721
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

The people of Florida are deeply committed to protecting the economy, environment and quality of life within the Apalachicola River and Bay Basin. Virtually all of the riparian land in the Apalachicola Basin has been placed in State or federal ownership, and very little water is withdrawn from the River for water supply or agricultural uses. Florida has purchased more than 280,000 acres of land and water in the Basin to protect and preserve the natural ecosystem. Toward that total, Florida invested more than $100 million to acquire 102,624 acres in 1999. With private conservation/preservation organizations and the United States, more than 500,000 acres have been acquired in the Apalachicola Basin and Bay areas. In addition to these significant expenditures, important cultural, historical and social values have evolved around the fishing industries of the Bay. The Apalachicola Bay Oyster, Apalachicola Bay Shrimp, Apalachicola Bay Blue Crab and several varieties of finfish have been commercially harvested from the Bay for generations. Entire communities have survived for generations on economies based on Bay fishing.

Comment ID: 22660
Author Name: Boddie, Nathan
Organization:

Impact assesment should also include those to human, commercial, and natural resource services.

Comment ID: 22847
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

This practice (Existing water management operations) has restricted the economic development of the lake region contemplated in the original Recreational Master Plan for Wes Point Lake , adversely impacted lower income and minority populations, and may have on "low water" occasions compromised the quality of water in the lake. The level of recreational development and use has been compromised by frequent low water elevations, rapidly fluctuating lake levels.

Comment ID: 22828
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. Actions that Must Be Evaluated In The Cumulative Impacts Analysis To comply with the cumulative impact assessment requirements, the Corps must analyze whether and how the proposed alternative management regimes could supplement, aggravate, or intensify the impacts of the following types of past, present, and reasonably foreseeable future actions throughout the entire ACF Basin: •Past, present, and reasonably foreseeable development, including commercial, residential, and road construction;

SAFETY HAZARDS

Comment ID: 22808
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

Additionally, low flows restrict the ability of law enforcement and emergency personnel to utilize the river for patrol and rescue operations.

SHORELINE MANAGEMENT

Comment ID: 22670
Author Name: Daigrepont, Jeff
Organization:

I assume the only negative impact [of increasing lake lanier's level from 1071 to 1073 feet] would be to the shoreline and some structures close to the water. Stimulus money could be used to make shoreline improvements to adjust for the rise in water level. Thanks for asking for input.

WATER MANAGEMENT RECOMMENDATIONS

ALTERNATIVES

Comment ID: 22868
Author Name: Bannister, Charles
Organization: GWINNETT COUNTY COMMISSION

Gwinnett County believes that the study should include alternatives that consider water supply at several levels. An expanded scope will provide the most efficient use of limited public funds while also ensuring that the Corps of Engineers will be prepared to implement the final determination regarding the use of ACF water, regardless of the outcome.

Comment ID: 22631
Author Name: Beachler, Mark
Organization:

We support raising the permanent level of Lake Lanier to 1073 to provide a buffer at little or now cost versus building new reservoirs in Georgia. We also support allowing the uses to include water supply and recreation.

Comment ID: 22630
Author Name: Daigrepont, Jeff
Organization:

While no solution is going to be cheap or quick, i think increasing lake lanier's water level from 1071 to 1073 (2 feet) would be the least expensive option and we can do this now. A 2 feet increase would be the equivalent of a second major lake....

BTW - it seems like this has been considerd in the past. I would be interested why this has not been done already. If nothing else, we could try to go into the summer months with a 2 foot buffer.

Comment ID: 22623
Author Name: Edwards, Peter
Organization:

Its common knowledge that the scope of the work that the Corps will be doing in updating the Water Control Manuals will be narrowed such that it will not consider or address the fact that the original ACF System design called for dams and storage facilities on the Flint River, which do not exist. We know that the Flint River has the vast majority of the water basin area in the entire ACF System and that the basin area is roughly ten times the basin area that feeds Lake Lanier. We also know that for a lake the size of Lanier, it's basin is significantly undersized. With the largest portion of the storage facilities in original System design missing from the System as it exists today, all stakeholders must face the reality that the System will never function in the manner for which it was designed. Furthermore to continue to assume

that Lake Lanier, with it's undersized basin, should be looked at as the water source of first resort during normal and or drought situations to fulfill all the functions that the ACF System was originally designed to fulfill, with all due respect, defies common sense and any level of disciplined engineering evaluation of the issues involved in the ACF System. If all of the stakeholders want a better balanced system that supplies maximized and more consistent levels and flows, then the stakeholders must address the issue at the heart of the matter. If the majority of the originally designed storage facilities are missing from the ACF System, to limit the scope of the work to a rewrite of the Manuals controlling the operations of the remaining Lake Lanier facility is simply an engineering slight of hand and will not resolve the issues of supply and flows that are the heart of the issues in the ACF System. While the rewrite may provide some small benefit in terms of better management of Lanier's pool levels, and should certainly shed light on the all too mysterious process of managing the out flows from Lanier, it will not resolve the true issue, which is the missing of a massive part of storage facilities in the original System design. If the goal is too improve the System such that all parties have sufficient flows under normal rain fall conditions and at least maximized flows during drought situations, then the obvious solution is to address the issue of the missing storage facilities on the Flint River. Simply stated if you wish to have maximized flows for all stakeholders during drought conditions you must have more storage facilities in place in the system to supply the down river flows during periods of drought.
I strongly suggest that there be two scopes of work related to the rewriting of the Manuals. The currently scoped work as redefined by the Courtýs order and a second broader scope of work that would encompass a preliminary engineering study that would define the benefits of additional storage facilities located on the Flint River, as well as preliminary feasibility study to locate appropriate locations for such facilities on the Flint River.

Comment ID: 22776
Author Name: Emery, Jr, James R.
Organization: TROUP COUNTY BOARD OF COMMISSIONERS

My request is that the revised or new ACF Water Control Manuals must provide consistently higher water levels in the West Point Lake at or above 633 msl.

Comment ID: 22785
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

Any revised or new ACF Water Control Manual must restore consistently higher water levels in the lake [referring to West Point Lake] at or above 633 msl.

Comment ID: 22876
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

We believe that preparing an Environmental Impact Statement (EIS) for a Water Control Manual for the Apalachicola-Chattahoochee-Flint River ("ACF") Basin must include water supply analysis and that failure to consider alternatives for water supply, at several levels, is unwise and a waste of limited public funds. The U.S. Army Corps of Engineers' (the

"Corps") EIS consideration must include alternatives, such as operations for water supply, even if they are deemed to exceed the agency's jurisdiction. 40 C.F.R. § 1502.14(c). The EIS is required to include alternatives that exceed the Corps' current authority because this information may be useful to the President, to Congress, and to the pUblic in shaping policy on a larger scale. See Natural Res. Defense Council, Inc. v. Morton, 458 F.2d 827, 836-37 (D.C. Cir. 1972). We set forth in this comment various alternatives which require study by the Corps deemed necessary for compliance with the National Environmental Policy Act ("NEPA").

Comment ID: 22880
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

2. Alternatives Required by NEPA to be Considered As the Corps is certainly aware, the authority for water sup'ply from Lake Lanier is currently the subject of litigation. Although a July 17, 2009 decision 10f the U.S. District Court for the Middle District of Florida (Magnuson, J.), sitting as a Multidistrict Litigation ("MDL") Court, determined that water supply was not authorized for the rel~ervoir, that decision is currently under appeal to the U.S. Court of Appeals for the Eleventh Circuit. Gwinnett County maintains that it is entitled to water supply from the reservbir under multiple theories, some I of which were not addressed by the Court. Thus, GWinnet~ County challenges the Corps' decision to omit water supply study in the current EIS pr0gess. See Notice of Intent To Revise Scope of Draft Environmental Impact Statement for Updating the Water Control Manuals for the Apalachicola-Chattahoochee-Flint River ~asin To Account for Federal District Court Ruling, 74 Fed. Reg. 59,965, 59,966 (Nov. 1/9,2009). Given the requirement that the Corps study alternatives e~en where they exceed its jurisdiction, 40 C.F.R. § 1502.14(c), to omit water supply from consideration, especially given the historical usage of Lake Lanier for this purpose, is a serious flaw in the EIS process which would warrant vacatur if perpetuated. At minimum then, the Corps should study whether and to what extent water supply impacts reservoir operations at various levels to accommodate whatever ruling may ultimately issue in the pending litigation. We would support a Corps' EIS for the Water Control Plan for the ACF Basin which includes water supply at the current levels as one alternative. Other water supply alternatives which should be studied would be what the Corps specified in its public notice-water supply being provided to Buford and Gainesville (10 mgd) with the off-peak flow at 600efs-as well as water supply being authorized at the level of yield for the year 2035 found in the Metropolitan North Georgia Water Planning District's Water Conservation and water Supply Plan of 2009. We believe that studying all of these alternatives would inform the Corps as to possible outcomes of the appeal of the MDL Court's JUly 17, 2009 Order. In addition we believe that being informed as to these alternatives would position the Corps to embrace not only any litigation outcome, but also any negotiated water allocation that the three states might agree to, or, any authorization for water supply use from the reservoirs that might be approved by the United States Congress. In our opinion to do otherwise is wasteful and does not prepare the Corps for any outcome other than water supply not being an authorized purpose for Buford Dam and Lake Lanier, and violatesNEPA for failure to consider all reasonable alternatives, regardless of whether they are deemed currently within the scope of the Corps' jurisdiction.

Comment ID: 22881
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

In addition to the foregoing water supply issues which require study, there are many alternatives for the Corps to consider in scoping its operations to address interests of stakeholders in the ACF Basin. For instance, raising the pool

of Lake Lanier by two feet, from 1071' to 1073,' would increase the amount of conservation storage at Lake Lanier by almost 10%. The lake has actually seen that type of additional volume given the recent extraordinary rains, without any ill effects to other Corps operatiolls. A similar strategy for increasing system storage would be to reduce the "winter drawdown" at West Point Dam. The Corps could also consider refurbishing Jim Woodruff Lock and Dam to increase the "head limit" for this facility; this is a structural issue that caused the Corps to waste a substantial amount of water that could otherwise have been preserved in storage during the height of the drought.

Comment ID: 22885
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

In sum, many alternative not presently presented in the EIS process, or purposefully omitted such as water supply, deserve and demand study by the Corps if it is to fulfill its NEPA responsibilities.

Comment ID: 22890
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

The regulation at 40 C.F.R. § 1502 (c), properly applied, requires the Corps to include water supply at and above current uses in its EIS, particularly since the historical practice has been to support this water supply use.

Comment ID: 22786
Author Name: Walker, Martha
Organization:

Regarding an article in my newspaper, Forsyth County News, I would like to place a vote for making Lake Lanier's full pool 1,073 ft.

This would serve to be a reservoir for times of drought like the past three years. It would be less expensive than trying to build a separate reservoir to store water for this area and Atlanta. There are many people in favor of this, and we have seen the last two months what a 1073 level would be like - it would not cause any hardships.

Thank you for your consideration.

CONSERVATION

Comment ID: 22813
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

Along with highly engineered, unsustainable options that will adversely impact the ACF River Basin if pursued, the Task

Force has proposed a handful of relatively modest conservation measures to help address the 2012 water "gap" left by the federal judicial ruling. In conjunction with the Georgia Water Coalition (GWC), UCR submitted extensive comments (attached) detailing the true potential of water conservation to meet water supply needs. The region's ongoing reluctance to readily embrace water conservation means that more demands will be placed on the ACF system. These foreseeable future demands will cumulative and adversely impact Corps ACF operations.

Comment ID: 22787
Author Name: Martin, Hall
Organization:

In the year 2000 residents here were restricted from washing their cars. To my knowledge we are still under that restriction today. I would like to know if the citizens downstream of us in Alabama and Florida are under the same restriction? If, why not?

Comment ID: 22791
Author Name: Martin, Hall
Organization:

Now I am not forgetting that we have been in a drought here for the last two years, and a semi drought for a few years before that. And I am aware of the water war going on for the use of the water from Lake Lanier. But if we have to be on water restrictions, then so should everyone downstream that uses water from Lake Lanier.

Comment ID: 22772
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper further urges the Corps to fully consider the following recommendations to help implement this alternative (or as components of other alternatives): • Require implementation of aggressive conservation measures that could reduce withdrawals and depletions from the ACF system.

Comment ID: 22830
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. Actions that Must Be Evaluated In The Cumulative Impacts Analysis To comply with the cumulative impact assessment requirements, the Corps must analyze whether and how the proposed alternative management regimes could supplement, aggravate, or intensify the impacts of the following types of past, present, and reasonably foreseeable future actions throughout the entire ACF Basin: •Reasonably foreseeable future improvements in water conservation.

DEMAND VS. NEED

Comment ID: 22750
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions: • Depletions of water from growth in the metro-Atlanta region, as well as other cumulative impacts from population growth within the region.

Comment ID: 22771
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper further urges the Corps to fully consider the following recommendations to help implement this alternative (or as components of other alternatives): • Increase the percentage of water returned to the river (in a clean condition);

Comment ID: 22825
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. Actions that Must Be Evaluated In The Cumulative Impacts Analysis To comply with the cumulative impact assessment requirements, the Corps must analyze whether and how the proposed alternative management regimes could supplement, aggravate, or intensify the impacts of the following types of past, present, and reasonably foreseeable future actions throughout the entire ACF Basin: •Past, present, and reasonably foreseeable future water withdrawals from the Apalachicola, Chattahoochee, and Flint Rivers from Federal, non-Federal, and private projects and actions;

EXISTING WATER MANAGEMENT PRACTICES

Comment ID: 22667
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

Recreation is an Authorized Purpose of Lake Lanier

We understand that the scoping process has been re-opened due to Judge Magnuson's Memorandum and Order of July, 2009 in the Tri-State Water Rights Litigation. But, while Judge Magnuson ruled that water supply storage is not an authorized purpose of Lake Lanier, recreation has always been and remains today an authorized purpose. The Corps has always considered recreation an authorized purpose, and Judge Magnuson explicitly and deliberately left this premise intact in his Phase 1 decision.

Comment ID: 22668
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

Augmentation Flows are Not Required by the Endangered Species Act

During the 2006-2007 drought, Lake Lanier became the sole source of augmentation flows to maintain the 5000 cfs required minimum flow at the Chattahoochee Gage. Augmentation releases from Lanier's storage during late summer and fall of 2007 at times amounted to two to three times the basin inflow of the entire ACF. Lake Lanier alone cannot provide enough water to be the sole source of augmentation flows to meet the Apalachicola River required minimum flow under such circumstances without being depleted.

As addressed in our previous comment letter and in the Association's Motion for Summary Judgment in Phase 2 of the Tri-State litigation, the Endangered Species Act ("ESA") does not require the Corps to augment Apalachicola River flows above run-of-the-river levels using Lake Lanier storage. This is because nature herself - not discretionary Corps operations - is the cause of any harm to the species resulting from low ACF flows. However, the Corps is obligated even during severe droughts to support the ACF facilities' legally-recognized benefits, including recreation.

Comment ID: 22688
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

Alternative Means of Remediating Apalachicola River Issues Should be Examined A fundamental flaw of the ACF system is that the Flint River has never been dammed, as originally contemplated by the Corps. This single factor has removed a significant portion of the water storage and flow control the Corps originally contemplated for meeting demands within the ACF system. The Association opposes using the Revised Interim Operations Plan ("RIOP") as the basis for a new WCP because it relies solely on augmentation flows as the solution to the concerns the Corps and the Service have identified in the Apalachicola River and its environs. The most fundamental problem with this solution is that it depends on augmentation flows from Lanier, which has the smallest drainage basin of any ACF reservoir, without regard to other causes of the problems in the Apalachicola basin itself. As reflected in the Service's RIOP Biological Opinion, among the causes of concerns in the Apalachicola are channel incising and widening, diversions of as much as 40% of the Apalachicola's flow to the Chipola Cutoff, and increased Apalachicola Bay salinity caused by Sikes Cut. The net result is to subject Lake Lanier, the source of 65% of the ACF system's storage capacity, to the risk of being drawn down significantly, especially in times of severe and prolonged drought, with no relief through eliminating or minimizing the actual causes themselves. This is a slippery slope of gradually-increasing future augmentation demands that could eventually render Lake Lanier physically incapable of meeting its authorized purpose of recreation - much less supporting downstream demands or Georgia's need for water supply storage.

Comment ID: 22751
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions: • All modifications to seasonal timing or altered timing of flows caused by reservoir operations, including federal and non-federal reservoirs. Special attention should be paid to Corps policies to hold reservoirs high, operational changes that redistribute and/or store water previously released for navigation support and the effects of thousands of small reservoirs (current and future) in the ACF Basin. In particular, the Corps continues to permit new reservoir construction without any comprehensive review of impacts or a programmatic EIS.

Comment ID: 22664
Author Name: Emery, Jr, James R.
Organization: TROUP COUNTY BOARD OF COMMISSIONERS

West Point Lake's elevation is intentionally managed at a level that is too low during the winter. The current rule curves provide disproportionately large amounts of flood storage during the winter as compared to all other Federal projects on the basin. The 628' MSL zone 1 winter pool elevation does not allow adequate utilization of the lake for other congressionally authorized purposes such as "recreation" and "sport fishing and wildlife development". The low elevation also has tremendous negative economic impacts on our region. The low lake levels also cause over 500 miles of shoreline to become exposed causing erosion and extremely high turbidity during rain events. During this time of re-assessment of the Corps of Engineers' operations manuals, this error can (and should) be corrected.

There are two primary reasons for West Point Lake's lower-than-necessary elevations:

1) The "Flood Control" authorized use of West Point Lake has been over-emphasized in the current operations manuals as compared to the other authorized uses, and the necessary winter flood storage capacity has been over-estimated. Proof of this can be found in the (newly available) fact that the September 2009 "Flood of record" for this basin was routed through West Point Lake with no significant flooding downstream of the dam even though management of the event began with West Point Lake above full pool (Elevation 635.3 Monday morning September 21, 2009). The rain event was unprecedented. The USGS has put the event in a category of floods that can only be compared with a handful of rain events that have ever occurred in the history of this country. The center of the rain event was in the center of the West Point Lake sub-basin. The Chattahoochee River gage at West Point measured its record flow during the December 1919 Flood; a record that still stands today thanks to West Point Lake. The 1919 flood also produced record flows at the Franklin gage, the Whitesburg gage, the Fairburn gage and the Atlanta gage. The September 2009 flood caused river flows in excess of the 1919 flood at the Franklin gage, the Whitesburg gage, and other gages upstream of West Point Lake, but the flows below the dam were managed at rates that cause no significant flooding at all. The flood only resulted in a rise in lake elevation from 635.3 to 639.26 (leaving nearly two additional feet of storage). 2009 has also been the wettest year on record for many parts of the ACF basin (including the rain gages at Columbus). The gages in Atlanta have measured the second wettest year ever; the gages in Macon have measured the third wettest year on record. In all likelihood, we will never again have to deal with a flood of this magnitude, and yet it was successfully managed with a starting lake elevation above 635 -- not 628. This is proof that the required winter flood storage has been grossly over-estimated.

2) Water is being supplied to downstream interests at a flow rate that is higher than what would occur naturally, and is higher than these downstream interests have any "right" to. The flow through West Point Dam should be based upon meeting the congressionally "Authorized Purposes" of the project …and not based upon "wants" and "desires" of

downstream water users that do not have congressional authorizations for flows higher than what would occur naturally. The base flow at West Point Dam is 675 CFS. This is TRIPLE the unregulated (natural) low flow of September 12, 1925 (224 CFS); and it is DOUBLE the monthly average low flow of September 1925 (333 CFS). Even though all downstream river users are now guaranteed this much greater amount of flow, they continue to demand more. All users of the resource should have drought contingency plans to provide for their sustainability during dry times when the proper management of West Point Dam only provides the established base flow of 675 CFS.

Comment ID: 22775
Author Name: Emery, Jr, James R.
Organization: TROUP COUNTY BOARD OF COMMISSIONERS

There is no question that the Corps has done a tremendous job of providing "flood control" and "hydropower", as authorized by Congress, but there needs to be a better balance of other authorized uses such as "recreation" and "Sport Fishing and wildlife development". The management of the lake [referring to West Point Lake] seems severely weighted toward some uses with little regard for the others.

Comment ID: 22665
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

Since its development, West Point Lake has been over managed with excessive amounts of storage capacity being set aside for Flood Control and to provide for flow augmentation downstream for other than authorized purposes. These management practices have adversely impacted the "General Recreation" authorized purpose established by Congress for the lake in the legislation that established the project. Documentation and planning by the Corps reflect that West Point Lake has an established recreational impact level of 632.5 msl. Yet the rule curves, action zones and operating practices have enabled historic operations that consistently breach elevations below the recreational impact floor of 632.5.

Current rule curves and action zones, utilize water from West Point Lake (as measured against percentage of conservation storage remaining) to augment downstream flows and to retain water in Lake Lanier . Yet other Corps lakes on the ACF do not carry same type of specific "General Recreation" and "Sport Fishing and Wildlife" authorizations that West Point lake has been assigned by Congress. An example of this error is found in the 1989 Water Control Plan (draft) on page 12, para 3, which calls for the maintenance of flows at Jim Woodruff for "Industrial Users". The West Point project is used to support this flow but was never authorized by Congress to support "Industrial Users" downstream. Utilization of West Point waters for downstream flow augmentation when levels are below 632.5 must cease.

This practice has restricted the economic development of the lake region contemplated in the original Recreational Master Plan for Wes Point Lake , adversely impacted lower income and minority populations, and may have on "low water" occasions compromised the quality of water in the lake. The level of recreational development and use has been compromised by frequent low water elevations, rapidly fluctuating lake levels.

Comment ID: 22779
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

This singular event [referring to September 2009 flooding] demonstrates that rule curves established for West Point Lake in the 1960's and 1970's for flood control are inaccurate with the amount of winter flood storage highly over allocated. The sacrifice of recreational use for a flawed flood control allocation of storage in the lake has caused significant harm to the opportunity to meet the authorized recreational purpose.

Comment ID: 22784
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

It has been established that the Corps should adhere to maintaining a balance between authorized uses [referring to West Point Lake]. The Corps always meets hydropower demand and flood control demands, but rarely provides for continuous recreational use through useful pool elevations. The application of arbitrarily harsh action zones - more severe than any other lake in the basin as measured by percentage of conservation storage remaining - and, the over allocation of winter flood storage eliminates any possibility of compliance with the recreational authorization.

Comment ID: 22789
Author Name: Martin, Hall
Organization:

Hall County is being severally restricted from using the water right here in our county so that people downstream of us can use the water from Lake Lanier. We have heard in past years that the water from the lake had to be let out at a high rate to keep barges floating downstream. In the last few years we were told the lake had to be depleted to keep muscles alive downstream.

Comment ID: 22655
Author Name: Timmerberg, Dick
Organization: West Point Lake Coalition

On behalf of the West Point Lake Coalition, its approximately 1200 members, and its Corporate Sponsors, we submit the following comments as a follow up to our comments submitted on 21 October 2008 and included here once again:

The Corps needs to manage West Point Lake in a balanced manner for the five specific purposes for which it was authorized by Congress. Note that West Point Lake was NOT authorized for thermo-electric power or for waste assimilation for downstream communities. In fact, power plants and water treatment facilities should have been built based on historic low flows knowing that they had no claims to the waters of West Point Lake over and above the minimum 675 CFS released continuously from West Point Dam.

West Point Lake was specifically authorized for recreation and sport fishing & wildlife development in addition to flood control, hydropower and navigation. A review of the Corps' own, historic records will show that West Point Lake was rarely managed for recreation. The Corps' own records show an initial recreation impact level of 632.5 MSL and lake levels historically are routinely below this initial impact level. In spite of an annual economic impact of $709.7 million when maintained between 633 and 635 MSL, historical data will show that flood control and hydropower have been the primary purposed and the other three authorized purposes have been relegated to secondary status. This is further evidenced by an antiquated rule curve which calls for a 7 foot draw down vs. one foot for Lake Lanier and only two feet for Walter F George. Research of the original engineer's report shows no rationale for such a drastic rule curve.

During September of 2009 when West Point Lake was at full pool, we experienced what USGS called a record setting event, so much beyond a one in 500 year event to even calculate. In spite of this RECORD SETTING event, the Corps successfully managed the situation, much to their credit, without any significant downstream impacts. At 632 MSL there is nine feet of flood storage available and at 635 MSL (full pool) there is six feet of flood storage available. If additional flood storage is needed, Lake Lanier should be utilized, since flood control is one of its authorized purposed as well.

Comment ID: 22844
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper also urges the Corps to abandon its current methodology of calculating basin inflow, as that methodology does not accurately reflect inflows to the basin.

WATER MANAGEMENT SUGGESTIONS

Comment ID: 22689
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

In recognition of the vital importance of recreation to the lives and livelihoods of the people and businesses whose interests the Association represents, we believe it is imperative that the Corps, in appropriate consultation with Service, examine in detail all alternative means of mitigating the ACF system's reliance on Lake Lanier as the solution for the system's problems - for which Lanier was neither designed nor intended. It is extremely important to our constituents that Lanier's water level be maintained as high as possible while supporting other authorized purposes, and that severe draw-downs - especially below 1060 MSL - be avoided to the maximum extent possible. We believe significant improvements can be made in these regards, if the Corps will take the time to genuinely investigate and implement alternative remediation measures.

Comment ID: 22690
Author Name: Barnhorst, Vicki
Organization: Lake Lanier Association

Specific Requests for the New WCP We request that the new WCP include remediation measures, including those

mentioned above, as opposed to relying solely on augmentation flows as the solution to the system's problems. We hope to see a new WCP that keeps Lanier's water levels as high as possible and minimizes draw-downs in times of severe and extended drought while meeting all legitimate downstream demands. To accomplish this, we request the following of the Corps in its creation of the new WCP: (a) it not use the RIOP as the presumptive basis for the new WCP; (b) it review and analyze: (i) all comments submitted by the Association; and (ii) alternative operations for severe and multi-year drought events to minimize draw-downs of Lake Lanier; and (iii) mitigation factors as alternatives to minimum flows for support of threatened and endangered species, including: (1) remediating the Apalachicola River channel, (2) modifying or closing flows in the Chipola Cutoff, and (3) modifying or closing Sikes Cut; and (iv) alternatives to the following provisions of the RIOP: (1) required minimum flows of 5,000/4,500 cfs and existing trigger criteria, (2) prescribed storage/release thresholds, (3) determining minimum flows based on composite storage zones and "basin inflow," (4) rise rates and fall rates, (5) minimum seasonal flows and begin/end dates (e.g., for spring spawning), and (6) percent of Basin Inflow available for storage; and

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Comment ID: 22712
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Corps' critical yield analysis, as well as its EIS for the WCM revision, also should affirmatively acknowledge that the entire conservation pool (from 1035 to 1070 msl) at Lake Lanier is available to meet hydropower and other downstream demands. The Corps historically has operated Lake Lanier as if the conservation pool exists only between elevation 1050 and 1070 msl. This practice has eliminated a significant block of storage that can be used to augment downstream flows necessary to comply with the ESA, among other laws.

Comment ID: 22807
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

Recreation and navigational uses of the river benefit from moderate and more consistent flows. According to a Recreation Flow Preference Report completed by CH2MHILL in 2000, the preferred recreation flows for wade / float fishing, rowing and power boating is between 1,000 to 1,200 cfs. This report further documented that the ideal recreational flow of 1000 - 1200 cfs was available less than 1 percent of the time during the summers of 1997 and 2000 (period studied). The Nestler report (1985) identified optimal canoeing conditions for all user levels as occurring between 1250 cfs - 7000 cfs. Both of these studies provide strong support for baseline flows above 1000 cfs as being crucial to support the recreational uses envisioned by Congress when the CRNRA was established. CRNRA is also concerned that minimum flows in the river will be inadequate for weekend recreational use if discharge schedules do not allow for increased flows on weekends. The proposed minimum flow of 600 cfs is not ideal for any recreational uses of the Chattahoochee River, and if implemented will have a negative effect on recreational and navigational uses of the river. Additionally, low flows restrict the ability of law enforcement and emergency personnel to utilize the river for patrol and rescue operations. As previously mentioned, CRNRA staff has also noted increased exotic vegetation in Bull Sluice Lake under low flow conditions, which serve as a further impediment to recreational and navigational uses of this portion of CRNRA.

Comment ID: 22810
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

In summary, the national importance of the Chattahoochee River corridor as an ecological, recreational, and historic resource has been established by its inclusion in the National Park system. In order to ensure park resources are "preserved and protected from developments and uses which would substantially impair or destroy them," the NPS would like to work cooperatively with the USACE to manage flows within the Chattahoochee River. The preservation of base flows in the Chattahoochee for ecological and recreational purposes is critical. The NPS would like to see a minimum flow in the River established at no less than 1000 cfs to ensure that both ecological and recreational uses of the river are preserved. In addition, the NPS would encourage the USACE to evaluate the possibility of establishing a flow standard within the central reach of the park (i.e., at the Norcross or Roswell gage) to ensure that water quality and minimum flows are preserved throughout the recreation area. Finally, the USACE should consider modifying the release schedule from Buford Dam to allow for more gradual increases and decreases in water levels to mitigate the effects of sudden and dramatic changes in river levels. As the USACE prepares the EIS and updated Water Control Manual, the NPS requests that NPS input and impacts to CRNRA be fully evaluated and considered.

Comment ID: 22849
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

Finally, we also want to emphasize the need for the Corps to consider the ongoing Federal Energy Regulatory Commission (FERC) relicensing of the Bartlett's Ferry facility and the operations of other non-Corps facilities during the Water Control Manual update. Notably, some 60,000 acre-feet of storage is available in Lake Harding, which could provide roughly 1,000 cfs of water for 40 or more days. One alternative that the Corps ought to consider is the integration of non-Corps, federally-licensed reservoirs into a meaningful drought contingency plan.

Comment ID: 22873
Author Name: Owens, Tony
Organization: MEADWESTVACO PACKAGING RESOURCES GROUP

Further, MWV believes that the Corps is required by its own regulations to develop water control plans for "reservoir, locks and dams . . . to conform with the objectives and specific provisions of authorizing legislation and applicable Corp of Engineers reports."21 Therefore, any water control plan for West Point must be clearly documented in any water control manuals developed for West Point or for the entire ACF River Basin.22 The water control plan for West Point (and in fact for each Corps reservoir in the ACF) must include a "coordinated regulation schedule for project/system regulation."23 Such a "reservoir regulation schedule" should include operating criteria, guidelines, rule curves, and specifications that govern the storage and release functions of a reservoir.24 Any reservoir regulation schedule developed for West Point must place particular emphasis on anticipating and providing for project operation during drought conditions25 as well as being kept up-to-date.26 In fact, any water control manual for West Point must be revised as necessary [by the Corps] to conform with changing requirements resulting from developments in the [ACF River Basin], improvements in technology, new legislation and other relevant factors [e.g., Court Order] 27

Comment ID: 22628
Author Name: Perry, Bill
Organization:

I believe that allowing the natural flow to make the lake more stayble is something to be considered. what water flows in, is what should be released. that is a good place to start, you can always ajust releases as needed for what ever reason. but you can't adjust what water God gives us.

Comment ID: 22669
Author Name: Perry, Bill
Organization:

as a home owner on lake lanier, it is in my best interest to see water levels stay at a more constant full pool level.

Comment ID: 22624
Author Name: Tilghman, Sidell
Organization:

It certainly makes sense to increase the full pool level of Lake Lanier at least a foot if not more. Also, depending on the short term weather forecasts, let water out of Buford dam as sparingly as possible so as to keep it as full as possible.

Comment ID: 22657
Author Name: Timmerberg, Dick
Organization: West Point Lake Coalition

We believe that a revised rule curve should be implemented with action zones limited to a three foot variance from full pool. There is no question that this provides for adequate flood storage while honoring the recreation authorization established by Congress. Southwest Georgia has a mild climate which makes recreation possible 12 months per year, and Congress recognized this when West Point Lake became the first Corps lake to be specifically authorized for recreation and the first lake to carry the description of a "demonstrated recreation project".

Comment ID: 22659
Author Name: Timmerberg, Dick
Organization: West Point Lake Coalition

Simply put, it is time under the Revised Water Control Plan to eliminate the undue stress on West Point Lake and realize that West Point Lake is NOT the WORKHORSE of the ACF System. It is time to acknowledge and manage West Point Lake in such a manner that its recreation and sport fishing & wildlife development authorizations are honored and the ACF System is managed in a truly balanced manner based on the latest science and technology

available. It is time to verify actual needs versus wants and time to require stakeholders to do all they can do versus all they only want to do!

Comment ID: 22759
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

On July 17, 2009, Judge Paul A. Magnuson ruled that the Corps did not have the authority to utilize the Buford Dam/Lake Sidney Lanier project for water supply purposes. As a result, the Corps' current management of the federal Apalachicola-Chattahoochee-Flint (ACF) system is illegal. Judge Magnuson also ruled that water supply withdrawals from Lake Lanier will be reduced to no more than 10 million gallons per day beginning in July 2012, unless the Corps obtains Congressional authorization for water supply or the parties to the litigation reach some other resolution. It is crucial that from this point forward the Corps manage the ACF system to ensure protection of the ecological integrity of the ACF ecosystem and to maximize water conservation.

Comment ID: 22770
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper further urges the Corps to fully consider the following recommendations to help implement this alternative (or as components of other alternatives): •Increase storage capacity by such things as dredging sediments captured by the Lakes; raising the top of the dams; and acquiring flood prone areas and reducing flood control;

Comment ID: 22826
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

B. Actions that Must Be Evaluated In The Cumulative Impacts Analysis To comply with the cumulative impact assessment requirements, the Corps must analyze whether and how the proposed alternative management regimes could supplement, aggravate, or intensify the impacts of the following types of past, present, and reasonably foreseeable future actions throughout the entire ACF Basin: •Past, present, and reasonably foreseeable future reservoir and dam operations;

Comment ID: 22842
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper refers the Corps to the pre-dam flows outlined in Attachment 1 to these comments (Attachment 1 was also provided with the March 15, 2009, Apalachicola Riverkeeper scoping comments). The

unimpaired flow data set should be calibrated to achieve a comparable representation of the pre-dam flows in Attachment 1 to ensure that it accurately reflects what would occur under natural conditions.

OTHER

Comment ID: 22707
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

A. Critical Yield An important element of the WCM revision, and its NEPA review, is an accurate critical yield for the ACF Basin and each of the Corps' reservoirs. Currently, the Corps is in the process of analyzing and updating the critical yield for the ACF Basin and must complete this analysis by the end of February 2010, as mandated by Congress in the FY 2010 Senate Energy & Water Development Appropriations Bill. The Corps should re-open the scoping process or otherwise seek public comment before finalizing its new critical yield analysis. An accurate critical yield is an essential component to the water control manuals and plans for federal reservoirs. The Corps cannot develop a new WCM for nor balance the Congressionally authorized purposes of its reservoirs without an accurate determination of critical yield based on the most severe drought of record.

Comment ID: 22632
Author Name: Keller, Brant
Organization: City of Griffin

In light of the judges ruling and the time frame given, the COE would host a watershed summit to present good, better, best options if there are any.Invitee's should be directly associtated with the ACF Basins. The more we know, the better decisions can be made by those who utilize the resource. This summit should not be a feel good meeting but one with substance and value.

Comment ID: 22818
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

A. Types Of Impacts That Must Be Analyzed It is critical that the Draft EIS analyze the direct, indirect, and cumulative impacts of proposed alternative management regimes on the: •Hydrology, channel morphology, stream flow (including deviations from the historical water levels, timing of freshwater flows, and natural flood pulse), and water quantity in the Apalachicola River and the ACF Basin;

Comment ID: 22833
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Historical flows (i.e., the pre-dam and reservoir flow regimes), including the amount, timing, and quality of flows in the ACF rivers;

Comment ID: 22837
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Changes in stream flows;

WATER QUALITY

Comment ID: 22846
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

The manual update process should also evaluate the Corps' compliance with existing environmental laws. Since the federal reservoirs were constructed, Congress, Alabama, Florida and Georgia have enacted a number of laws and regulations designed to protect and enhance the quality of the environment, including the Clean Water Act and the Endangered Species Act. In operating the federal projects in the ACF Basin, the Corps must avoid operations that will violate or lead to violations of water quality standards or will cause directly or indirectly the take of an endangered species or impacts to critical habitat. As part of its effort to update the water control manuals at the federal reservoirs in the ACF Basin, the Corps should ensure that even under drought conditions, sufficient flow is maintained below each dam, so that water quality standards and endangered species are protected. Specifically, the Corps should coordinate with the Fish & Wildlife Service, the EPA and appropriate state agencies in Alabama, Florida, and Georgia to ensure that the water control manuals are compliant with the Endangered Species Act and the Clean Water Act.

Comment ID: 22731
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Water quality changes in floodplain habitats/sloughs from increased disconnection.

Comment ID: 22741
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Effects on Apalachicola Bay salinity and nutrient composition and corresponding economic impact to seafood industry.

Comment ID: 22752
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions: • All point source and large-scale non-point source discharges of pollutants.

Comment ID: 22805
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

Water releases from Buford Dam play an important role in supporting water quality within CRNRA for a number of

parameters, including temperature, dissolved oxygen, bacterial levels, and turbidity. If the current target minimum flow of 750 cfs at Peachtree Creek is abandoned, there would be significant effects on water quality within CRNRA. As noted in background materials provided by the USACE, Buford Dam has been managed to release up to 1500 cfs to meet water supply needs and downstream water quality standards. If flows are reduced to a 600 cfs standard release level, water quality would deteriorate and flows within CRNRA would at times be dramatically reduced due to municipal water withdrawals and/or drought conditions. It has been documented by CRNRA and the USGS that flows at the Roswell gage above Morgan Falls Dam have reached extremely low levels (450-500 cfs) periodically over the past few years, even as the 750 cfs minimum flow requirement at Peachtree Creek has been maintained. Our concern is that a default release of 600cfs would not be enough to support water quality and ecological needs throughout CRNRA. Currently, over half of the 48-mile CRNRA is 303d-listed for not meeting fecal coliform standards under the state designation as a recreational water body. A USGS study in 1995-96 showed that the density of fecal coliform bacteria - the recognized indicator bacteria in Georgia - regularly exceeds the U.S. Environmental Protection Agency guidelines for recreational waters. Because of the large number of people who use the river for water-based recreation and the historically high levels of indicator bacteria in the Chattahoochee River, the U.S. Geological Survey (USGS), in partnership with several federal, state, and local agencies, began the BacteriALERT monitoring program in October 2000. The BacteriALERT program has now been in operation for almost a decade and has documented widespread variability in water quality within the Chattahoochee River, with bacterial spikes occurring during rain events when the proportion of surface water to dam releases is highest. These results highlight the importance of releases from Buford in maintaining water quality in CRNRA. Another source of water quality concern is the increasing number and capacity of wastewater treatment plants operating within the boundaries of CRNRA. Three wastewater facilities currently exist and a third (Forsyth County Shakerag WTP) is being planned for the near future. These plants have used historic flow regimes to model the assimilation of wastewater discharge into the river. If a baseline release level of 600 cfs is adopted, there would be an immediate change in the impact of wastewater on water quality in the river, and past studies on the assimilative capacity of the river would be invalidated. The EIS should evaluate the immediate result of reduced flows related to wastewater assimilation.

Comment ID: 22651
Author Name: Dunlap, Kit
Organization: Atlanta Regional Com

Any assessment by the Corps should also include the water quality impacts of changing or reducing river flows used to assimilate the 325 million gallons per day of permitted treated sewage discharged to the Chattahoochee River.

Comment ID: 22774
Author Name: Emery, Jr, James R.
Organization: TROUP COUNTY BOARD OF COMMISSIONERS

Study should be directed at the effects on water quality of emptying West Point Lake down to elevations below the levels established as the "recreational impact" of 632.5' MSL. After a full season of summer pool management, the lake bottom is covered with silt and clay particles that have settled out of runoff water. As long as the lake remains full, the particles remain stationary and cause no ill-effects. However, when the lake level is intentionally drawn down for an incorrect flood storage requirement, or to satisfy downstream desires, the lake bottom becomes exposed. When this un-stabilized mud is exposed to even small rain events the result is an extremely turbid lake. If even one acre of exposed

un-stabilized mud such as this were left on a construction site, the owner would be expected (required) to spend hundreds or thousands of dollars on BMPs to prevent the erosion and sediment from leaving the site. If the site did erode and cause sediment to run off into "state waters" the property owner would face sever fines and would be required to provide restitution. Yet, every fall, the USACOE exposes over 12,000 acres of un-stabilized mud and allows it to erode directly into "state waters".

Comment ID: 22783
Author Name: Maltese, Joe
Organization: CITY OF LA GRANGE

WATER QUALITY: West Point Lake has had an extremely high Chlor a standard set as a level for water quality compliance since the mid 90's. It far exceeds the levels set for other southeastern lakes and allows for poorer quality water. Chlor a levels in the 10-15 mg/l can be achieved in West Point Lake through management of the resource with higher pool levels. The establishment of an exceptionally high regulatory standard has allowed for the injection, concentration and build up of excessive nutrients from upstream sources and allowed overuse and the depletion of stored water in the West Point reservoir to maintain the lake "in compliance" with the Clean Water Act.

Recently GA EPD began its exploration of lowering the Chlor a standard from the current 27mg/l to a mid teen range, an action long overdue. EPD studies revealed that when Corps reduced storage and operated with lower lake levels during drought, low elevations, combined with higher temperatures resulted in high Chlor a levels. Operations of West Point Lake by the Corps with resulting low water levels have brought algae blooms indicating high Chlor a levels. The Corps should study the value and benefits of raising lake elevations - especially during drought to assure the dilution of nutrients and to maintain higher water quality in the lake. EPA review and study of this is warranted and requested. Higher lake elevations can result in healthier water for the lake.

Comment ID: 22870
Author Name: Owens, Tony
Organization: MEADWESTVACO PACKAGING RESOURCES GROUP

1. MeadWestvaco's Interest in the ACF River Basin. MeadWestvaco's Mahrt Mill is located on the Chattahoochee River near Phenix City, Alabama. The mill's operations are more specifically described in MWV's November 2008 comments, which are incorporated herein by reference. The Mahrt Mill's current NPDES permit issued by the Alabama Department of Environmental Management ("ADEM") includes provisions that are clearly dependent upon instream flows and water quality within the Chattahoochee. The permit specifically states: During the months of May through October, inclusive, when the flow in the Chattahoochee River is less than 6000 cfs, the following formula shall govern the discharge rate of BOD5 provided the specific limitation and the water quality constraints listed herein are not exceeded: BOD5(ppd) = 3.26Qs; where Qs=stream flow in cfs as measured at a location selected by the permittee and approved by ADEM.5 Flow reductions in the Chattahoochee and the corresponding reduction in water quality will make it difficult or (more likely) impossible for MWV to continue to operate the Mahrt Mill and remain in compliance with its NPDES Permit. Consequently, significant flow reductions in the river would result in MWV shutting the mill down in order to avoid NPDES Permit violations. Significantly, the Corps recognized MWV's very real water quality concerns in the Corps' January 2009 scoping report for the ACF: The Corps received 155 comments addressing water quality issues in the ACF River Basin. . . .There is also a concern that reductions in streamflow would result in MeadWestvaco's shutting

down operations to avoid violations of its National Pollutant Discharge Elimination System (NPDES) permit. . . . . Above all, citizens expressed the need for the Corps to avoid operations that will violate or lead to violations of water quality standards. Specifically, they recommended the following: • Examine the effects of reservoir operations on water quality, at projects and in the tailrace, in the Master Manual update, including ongoing and potential future effects on dissolved oxygen, temperature, pH, conductivity, nutrient and organic material dynamics, and various industrial and municipal discharges. • ADCNR recommended that the Corps maintain water quantity stations above and below all dams, and support flow stations below each lock and dam. • The Corps should adjust West Point Lake operations to ensure adequate inflow of water and lake elevations to dilute nutrient loading into the lake.6 5 MWV ADEM NPDES Permit Number AL0000817 ("NPDES Permit"), Part I.A. DSN001 Treated process wastewater (May - October), n.3. 6 Final Scoping Report: Environmental Impact Statement - Update of the Water Control Manual for the Apalachicola-Chattahoochee-Flint (ACF) River Basin, in Alabama, Florida, and Georgia. Prepared for: U.S. Army Corps of Engineers, Mobile District. Prepared by: Tetra Tech, Atlanta, Georgia. pp. 52-53. January 2009 (emphasis added).

Comment ID: 22872
Author Name: Owens, Tony
Organization: MEADWESTVACO PACKAGING RESOURCES GROUP

3. Water Quality Is an Authorized Purpose of West Point Dam and Lake. West Point Dam and Lake Project ("West Point") is specifically authorized not only for hydropower and navigation, but also for flood control, fish and wildlife recreation, and general recreation for those in the La Grange area. As pointed out below, the language of the authorizing legislation also authorizes the project for water quality purposes. In his Order, Judge Magnusson found that the primary authorized project purposes of the Buford Dam Project were limited to hydropower, flood control and navigation, and that "water supply, at least in the form of withdrawals from Lake Lanier, is not an authorized purpose."13 In tracing the history of the Buford Dam Project, Judge Magnusson made clear that any benefit to water supply due to regulation of downstream flows was incidental to the primary purposes of the project. The Order cited numerous Corps documents which either did not identify water supply as a purpose of the project or specifically stated that water supply was not a purpose of the project.14 Similarly relying on Corps documents, MWV contends that the Corps has consistently acknowledged in its regulations and public documents that water quality is an authorized purpose of the West Point Project,15 and that Congress recognized water quality as a purpose of the project, as well. West Point, a Corps-operated hydroelectric power project approximately 30 miles north of Columbus, was authorized by Congress in the Flood Control Act of 1962 ("FCA").16 This is consistent with the legislative history of the FCA, which authorized construction of West Point "substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 570, Eighty-Seventh Congress."17 In these recommendations, the Chief of Engineers recognized the importance of maintaining instream flows for waste dilution via releases from West Point: The cities of West Point, Lanett, Langdale and Riverview all discharge industrial and domestic wastes into the river. Sufficient flow would have to be discharged from the West Point Dam at all times to prevent a nuisance condition in this reach. . . . The Columbus-Phenix City area is another large contributor of pollution. Additional stream flow regulation which would be afforded by the . . . West Point reservoir[] would help dilute this pollution to some degree.18 The Corps estimated at the time that the proposed minimum releases from West Point's hydroelectric power operations would provide sufficient flows for the dilution of waste immediately downstream.19 However, it was clearly pointed out to both Congress and the Corps that this assumption would not likely hold true as circumstances changed. Officials with the U.S. Department of Health, Education and Welfare made it clear in a 1962 letter to the Corps which is included in the Congressional record regarding the passage of the FCA that future population and industrial growth in the region would lead to an increase in

the required minimum flows: An increased diversion of flow is expected because of population distribution and growths [sic]. Need for greater flows to maintain stream quality below wastes [sic] outfalls is predicted for the future and these requirements must be determined. . . . It is again emphasized that the above discussions [concerning required minimum flows] apply to present waste loading conditions. Future area development with its resultant larger waste production may well result in higher flow requirements.20 Despite these admonitions and the passage of almost 50 years since the Corps' original engineering study for West Point, the Corps has never officially revised its 1962 opinion that the minimum hydropower releases from West Point are sufficient to maintain water quality downstream. As the Corps develops revisions to the ACF Water Control Manual, it must ensure that its operations serve the communities and businesses of the ACF River System's middle regions, such as MWV, by ensuring adequate releases to protect water quality, as clearly contemplated and authorized by Congress in 1962. MWV urges the Corps to explain in the revised manual and the environmental documentation how it intends to account for the needs of the communities and industries located in the middle and lower portions of the ACF River System, including MeadWestvaco, for adequate flows to maintain water quality. As explained above, water quality is one of the authorized purposes of West Point.

Comment ID: 22819
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

A. Types Of Impacts That Must Be Analyzed It is critical that the Draft EIS analyze the direct, indirect, and cumulative impacts of proposed alternative management regimes on the: •Water quality, salinity levels, and nutrient composition in the Apalachicola River and Bay, and the ACF Basin;

Comment ID: 22839
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Changes in the concentrations of indicator water quality constituents;

WATER SUPPLY

Comment ID: 22697
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

The first objective that must be accomplished is to update the critical yield analysis for Lake Lanier, West Point Lake and Lake Walter F. George (Lake Eufaula), Lake. Alabama understands that the Corps is currently working on revised critical yield analyses for the federal reservoirs in the ACF Basin pursuant to the Congressional directive on that subject contained in the Fiscal Year 2010 Senate Energy & Water Development Appropriations Bill of the 111th Congress, 1st Session. Alabama urges the Corps to conduct a thorough and accurate assessment of this critical measure of reservoir capacity. Without an accurate determination of the amount of water that is available to address the competing demands for water and water storage in the driest of conditions, it will be impossible for the Corps to develop water control manuals that establish operations that are consistent with Congressional intent and satisfy the purposes for which Congress authorized each project. In the past, the Corps has failed to use thenexisting droughts of record to calculate the critical yields; deciding instead that the thenexisting drought of record was an outlier and could be ignored. Failure to develop a critical yield analysis based upon the actual drought of record cannot be repeated. Alabama looks forward to receipt of the Corps' updated critical yield analysis.

The determination of the critical yield should be done in an open and public process that includes input from stakeholders throughout the ACF Basin. Before the critical yields are finalized, the Corps should conduct one or more public hearings to allow the public to provide input into the process, particularly any modeling or operating assumptions used to make such calculations The critical yield calculations should consider the inventory of all existing pipes withdrawing water from or discharging treated wastewater to any of the federal reservoirs, including the elevation within the reservoir of each such pipe, and the need to meet downstream minimum flow requirements at Peachtree Creek (750 cfs), Columbus and Phenix City (1,850 cfs) and Plant Farley (2,000 cfs).

After the critical yields of the federal reservoirs are determined, the Corps must evaluate any proposed modification to the water control plans against an appropriate baseline. Alabama agrees with the Corps that the appropriate baseline must be the operations outlined in the July 17, 2009 Order, as reflected in the Corps' Federal Register notice. The State of Alabama believes that the use of action zones or other proposed operations must be measured against that baseline - again, using an accurate assessment of critical yield.

Comment ID: 22708
Author Name: Atkins, Brian
Organization: ALABAMA OFFICE OF WATER RESOURES

This step requires an assessment of any potential reservoir construction within the ACF Basin that might impact inflows into those federal reservoirs. The State of Georgia has developed a water supply plan that includes various assumptions and projections regarding the use of federal reservoirs for water supply purposes over the next several years. Moreover, the State of Georgia is currently developing contingency plans that include a variety of potential options, including construction of additional reservoirs. To date, the Corps has not reviewed any of the potential efforts within the State of Georgia to increase the amount of water storage available for water supply to determine whether

they would require a reallocation of storage in federal reservoirs. Failure to consider the impact of these assumptions and projections upon the potential future operations of Corps' projects would violate the Corps' obligations to consider the cumulative impacts of known and foreseeable future actions. The Corps should consider these potential reallocations of storage in the environmental impact statement under NEPA, but should also consider the extent to which these reallocations exceed the limits of the Corps' water supply authority, as set forth in the Order.

Comment ID: 22794
Author Name: Barnes, John
Organization: GA EPD

For decades, the Corps has recognized that Lake Lanier should be operated for water supply. Nothing in the Corps' November 19, 2009 Notice suggests that the Corps has altered that view. Instead, the Notice suggests that the Corps is altering the scope of the EIS merely in reaction to the July 17, 2009 ruling. Since the NEPA regulations instruct the Corps to consider alternatives that are beyond its authority, a federal district court ruling that the Corps lacks authority to operate Lake Lanier for water supply should not alter the scope of the EIS. Moreover, nothing in the July 17, 2009 ruling suggests that the Corps should not consider water supply operations as an alternative in its NEPA analysis for the WCM update. To the contrary, the court tailored its remedy in a manner to allow, and even encourage, the parties to go to Congress to obtain further authorization for water supply. If the Court of Appeals reverses the July 17, 2009 ruling, there should be no legal impediment to the Corps' continuing to operate for water supply. If the July 17, 2009 ruling instead is upheld on appeal, Congress and the President will have no choice but to take up the question of whether or not Lake Lanier will continue to meet the water supply needs of millions of Georgians, and it would benefit Congress, the President, the Corps, and the public for the study of future alternatives to consider the effects on the human environment of operating Lake Lanier for water supply in comparison to not doing so. Thus, under either scenario, it only makes sense for the Corps to study alternatives that would involve the Corps operating to satisfy present and future water supply needs.

Comment ID: 22749
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

c. Cumulative Impacts. For purposes of cumulative impact analysis, the Corps should include, at a minimum, the following reasonably foreseeable actions: • All depletions of water within the entire ACF Basin, including metro-Atlanta uses, irrigation in the Flint River Basin, and reservoir evaporation. At a minimum, all grandfathered and permitted acreage should be included. Further, the analysis must reflect the best available information on the effects of ground water pumping on streamflows, which at a minimum equal and probably exceed those quantified by the USGS ground water model for southwest Georgia.

Comment ID: 22650
Author Name: Dunlap, Kit
Organization: Atlanta Regional Com

The Corps should provide a full assessment of the environmental, social and economic impacts of the proposed

revision.

The Corps should conduct an assessment of the impacts to the human and natural environment from cutting off the water supply to over three million people and 600,000 businesses that are solely dependent on the Chattahoochee River and Lake Lanier for water supply. The issue of water supply for metro Atlanta has been studied by the Corps in the 70s, 80s, and 90s and a review of the record will show that even the Corps concluded that there is no reasonable replacement water source available to metro Atlanta. Work by ARC and the Metro Water Planning District continues to confirm that fact.... We believe that the environmental, social, and economic impacts of the revision alternative will be devastating to the region and the nation. A full assessment of the "draconian" alternative by the federal government is essential.

Comment ID: 22799
Author Name: Gravitt, Ford
Organization: City of Cumming

As you are aware, the City of Cumming has the most advanced water intake facility on the entirety of Lake Sidney Lanier. Through that facility, the City of Cumming provides raw water to potable water treatment facilities in both the City of Cumming and in unincorporated Forsyth County, which in turn provide all - 100% - of the public water needs of this County of over 160,000 residents. To put it mildly, the City of Cumming's intake facility and the water it provides are absolutely essential to the health, welfare, and safety of the citizens of Cumming and Forsyth County.

Given the City of Cumming's role in providing water to so many people, it is not surprising that the City's greatest concern focuses on subsection (b) of the scope review disclosed on the notice described above. Pursuant to that subsection, in July of 2012: "the updated manuals will reflect that water supply withdrawals from Lake Lanier will be limited to the amounts authorized by relocation agreements with the Cities of Gainesville and Buford, Georgia. Those agreements, which were executed at the time of the reservoir's construction, authorized withdrawals of 8 million gallons per day(mgd)for Gainesville and 2 mgdfor Buford, a combined 10 mgd." According to the suggested revisions to the Master Water Control Manual, the above quote withdrawals will be the only withdrawals for potable water production allowed from Lake Lanier. Put differently, in July of 2012, the United States Army Corps of Engineers proposes to essentially turn off the spigot for the City of Cumming and Forsyth County, at which time hundreds of thousands of people will find their faucets dry. Such a proposal is beyond comprehension - it is, in a word, reckless.

To understand the City of Cumming's position in this matter is will be helpful to brief you on the history of the City's public water utility. Prior to the creation of Lake Lanier, the City of Cumming had a potable water production facility located on Dobbs Creek. This filtration plant, which was in place as early as 1949, took water from Dobbs Creek, filtered it for consumption, and then distributed the water to the public through lines in the City of Cumming. Dobbs Creek flowed and continues to flow into Sawnee Creek which is a tributary to Lake Lanier. Thus, just as Gainesville and Buford received their water from Lanier tributaries, leading to their right to withdraw from the Lake, so too did the City of Cumming.

Importantly, there was no allotment or quota of water withdrawals from Dobbs Creek which governed the City's water production facilities. Instead, the issue was "how much water does the City need?" Such is what governed the amount of water withdrawn, and as time passed and the needs of the City grew, so too did the City's withdrawals. In short, the

only allocation formula to determine how much water the City withdrew from Lanier tributaries was demand.

Despite the fact that the City's withdrawals were demand driven, the planning and implementation of the City of Cumming's water utility was a thorough and well managed process. As discussed previously, the City of Cumming has a raw water intake on Lake Lanier which is the most technologically advanced of any around. The intake can handle up to 105 mgd, which was chosen because it covers the allotments to the City of Cumming and Forsyth County set by the Metropolitan North Georgia Water Planning District ("MNGWPD"), being 104 mgd total. In addition to the plant, the massive and expensive infrastructure is in place to move the raw water from the lake to the City's treatment plant, and Forsyth County is in an advanced position in this regard as well. Of course, the utility infrastructure from the plant to consumers is an even larger network of distribution lines and storage facilities. The City of Cumming and Forsyth County water utilities are, in a word, massive.

As part of the expansion of the water system, the City also expanded and upgraded its waste water treatment facility. The treatment facility can now handle more waste water and treats it to a higher level than it ever has before. In fact, the water that is returned to the stream nearby the waste water treatment plant is cleaner than the water which naturally flows in the stream. And in returning the water to a stream, the treated waste water is returned to the Chattahoochee basin, thus allowing downstream users additional water for their water production needs.

Importantly, all notices were given, permits obtained, and laws and regulations complied with in the construction of the City's state-of-the-art intake facility and in conjunction with the expansion and upgrade of the City's waste water treatment facility. This is true whether the requirements are from the U.S. Army Corps of Engineers, the Environmental Protection Agency, federal statutes, state statutes, the Georgia Environmental Protection Division, or any other regulatory entity involved in the process. From the description of the City's utility system and its evolution, two things are clear: (1) nothing about the development of the City of Cumming's utility was a rash or quick decision - everything was well thought out and planned to meet the needs of this growing area; and (2) all told, it is perfectly evident that the federal government, including the Corps of Engineers, was aware of and approved the City of Cumming's actions, including the investment of millions upon millions of dollars into what is now an infrastructure system worth in the billions of dollars. And now the City of Cumming is told, with the investment complete and the infrastructure in place to provide water to the citizens of the City of Cumming and Forsyth County, the Corps proposes to turn off the water, which would turn the billion dollar utility into a massive set of empty pipes and thirsty people.

Given all that has been discussed herein, it should come as no surprise that the City of Cumming is vehemently opposed to the revisions to the Master Water Control Manual, especially as disclosed in subsection (b) on the Notice received on November 24, 2009. To propose to end all withdrawals by the City of Cumming in July, 2012, thus cutting off water to hundreds of thousands of people in Forsyth County alone, is callous, reckless, and is a threat to human life and safety. Moreover, given that the Corps and federal government permitted and allowed the City of Cumming's expansions and investments to occur, the Corps should be stopped from now taking that expansion and investment away by turning off the water. Finally, considering that the Corps' proposal would take a billion dollar asset and make it worthless, turning off the water, if carried out, would be the epitome of a taking without just and adequate compensation. To be blunt, when Lake Lanier was built the federal government compensated people so little -- $6.00 and $7.00 an acre in some cases -- that many people accused the government of stealing the land. Now, it appears that the government will do so again by rendering over fifty years of planning, investment, acquisition, and building worthless.

For the reasons set forth in this letter, it is with the utmost sincerity that the City of Cumming asks the U.S. Army Corps of Engineers to reconsider the proposed revisions to the Master Water Control Manual, and especially to reconsider subsection (b) of the proposed revisions. While Judge Paul Magnuson may have issued an order in the Tri-States Water Rights Litigation,' that does not mean that the Corps of Engineers should rush out and amend its manual when two and a half years still remain for the parties to resolve their differences, or for Congress to resolve the situation for them.

I thank you for your time and attention to this matter.

Comment ID: 22637
Author Name: Gravitt, Ford
Organization: City of Cumming

Given all that has been discussed herein, it should come as no surprise that the City of Cumming is vehemently opposed to the revisions to the Master Water Control Manual, especially as disclosed in subsection (b) on the Notice received on November 24, 2009. To propose to end all withdrawals by the City of Cumming in July, 2012, thus cutting off water to hundreds of thousands of people in Forsyth County alone, is callous, reckless, and is a threat to human life and safety. Moreover, given that the Corps and federal government permitted and allowed the City of Cumming's expansions and investments to occur, the Corps should be estopped from now taking that expansion and investment away by turning off the water. Finally, considering that the Corps' proposal would take a billion dollar asset and make it worthless, turning off the water, if carried out, would be the epitome of a taking without just and adequate compensation. To be blunt, when Lake Lanier was built the federal government compensated people so little -- $6.00 and $7.00 an acre in some cases -- that many people accused the government of stealing the land. Now, it appears that the government will do so again by rendering over fifty years of planning, investment, acquisition, and building worthless.

For the reasons set forth in this letter, it is with the utmost sincerity that the City of Cumming asks the U.S. Army Corps of Engineers to reconsider the proposed revisions to the Master Water Control Manual, and especially to reconsider subsection (b) of the proposed revisions. While Judge Paul Magnuson may have issued an order in the Tri-States Water Rights Litigation, that does not mean that the Corps of Engineers should rush out and amend its manual when two and a half years still remain for the parties to resolve their differences, or for Congress to resolve the situation for them.

Comment ID: 22812
Author Name: Hartt, Laura
Organization: Upper Chattahoochee Riverkeeper

While the ruling clarifies the limited degree to which Lanier can be operated for water supply, the response of the three states, Georgia in particular, will have a significant impact on the ACF Basin. For instance, we note the array of water supply options recently proposed by Georgia's Water Contingency Task Force, which include

o Pump-Storage Reservoirs along Tributaries to the Chattahoochee River-We have serious concerns with at least two of these-Glades Farm, South Fulton Bear Creek. I have attached comment letters UCR has submitted to the Corps' Savannah District that highlight both our site-specific as well as our ACF River Basin-wide concerns.

o Deviation from Georgia's Interim Instream Flow Policy and Peachtree Creek Flow Target-We further note that the Task Force has proposed significant deviations from the state's Interim Instream Flow Policy as well as the 750 cfs flow target Peachtree Creek presumably to increase yield within these water supply reservoirs. These proposals will have devastating impacts on water quality, recreation, habitat, and other key instream needs throughout the ACF Basin. I have attached a comment letter UCR submitted to the Task Force which also raises these concerns.

o Inter-Basin, Intra-Basin, and Interstate Water Transfers-The Task force has proposed everything from inter-basin transfers (moving water from Lake Burton and Lake Hartwell/Savannah River Basin to Gwinnett County's water treatment plant on Lake Lanier) to intra-basin transfers (moving water from West Point Lake up into Metro Atlanta) to even interstate transfers (from Alabama's Tennessee River to "somewhere" in the Metro District). Of course, because of widespread use of septic systems, any transfer of treated water into Gwinnett County may ultimately end up in the Ocmulgee Basin, not the Chattahoochee. As for West Point Lake, there are serious concerns over inadequate flows to maintain current water quality conditions let alone restore water quality to meet designated uses.

o Aquifer Storage and Recovery (ASR)-Finally, the Task Force has proposed at least one ASR site in northwest Georgia that, if implemented, may adversely impact the surface hydrology and water quality of the ACF River Basin.

Although still in the planning stages, each of these options is undergoing serious scrutiny by the state of Georgia and a decision on implementation is imminent. If any or all of these above options are implemented, they will significantly impact the Corps ACF operations, which must accommodate authorized uses of navigation, hydropower, and flood control. With respect to the latter, the recent historic 500-year flood is a good indicator of the management challenges the Corps will continue to face as metro Atlanta's rapid, unchecked development leads to more and more impervious surfaces throughout the ACF Basin.

Comment ID: 22621
Author Name: Heard, Jonathon
Organization: City of Cumming Dept. of Utilities

Given all that has been discussed herein, it should come as no surprise that the City of Cumming is vehemently opposed to the revisions to the Master Water Control Manual, especially as disclosed in subsection (b) on the Notice received on November 24, 2009. To propose to end all withdrawals by the City of Cumming in July, 2012, thus cutting off water to hundreds of thousands of people in Forsyth County alone, is callous, reckless, and is a threat to human life and safety. Moreover, given that the Corps and federal government permitted and allowed the City of Cumming's expansions and investments to occur, the Corps should be estopped from now taking that expansion and investment away by turning off the water. Finally, considering that the Corps' proposal would take a billion dollar asset and make it worthless, turning off the water, if carried out, would be the epitome of a taking without just and adequate compensation. To be blunt, when Lake Lanier was built the federal government compensated people so little -- $6.00 and $7.00 an acre in some cases -- that many people accused the government of stealing the land. Now, it appears that the government will do so again by rendering over fifty years of planning, investment, acquisition, and building

worthless.

For the reasons set forth in this letter, it is with the utmost sincerity that the City of Cumming asks the U.S. Army Corps of Engineers to reconsider the proposed revisions to the Master Water Control Manual, and especially to reconsider subsection (b) of the proposed revisions. While Judge Paul Magnuson may have issued an order in the Tri-States Water Rights Litigation, that does not mean that the Corps of Engineers should rush out and amend its manual when two and a half years still remain for the parties to resolve their differences, or for Congress to resolve the situation for them.

Comment ID: 22633
Author Name: Jones, William C.
Organization:

If it is true that the US Corp of Engineers has started planning for cutting off the water supply to the metro Atlanta Area, this is a terrible travesty. Corp Resources should be dedicated to assisting the nation find additional water supplies for the 40 metro area nationally that are in need of this help.

Comment ID: 22634
Author Name: Lucas, Barry
Organization:

I am astonished that the the federal government proposes to cut off water supply to many North Georgia counties and cities in 2012 because of a legal technicality. US Army Corps of Engineers approval was given many times over the years, as these various counties and cities built BILLIONS OF DOLLARS WORTH OF INFRASTRUCTURE TO SUPPLY WATER TO THEIR CITIZENS AND BUSINESSES. According to Judge Magnuson, the USACE acted without proper authority in allowing withdrawals over many years, and by operating the dam in a manner to provide for water supply.

Comment ID: 22673
Author Name: Lucas, Barry
Organization:

So the federal government will not stand behind one of its own agencies, but instead threatens to take away local county and city raw water supply unless congress reauthorizes the lake for purposes of water supply? Since the federal government made this mistake, why is it left up to the State of Georgia, and the local cities and counties to come up with a solution? I would propose the the USACE be held accountable for their mistakes over the last 40 years. They should have the lead on obtaining congressional approval for reauthorization of the lake for use as water supply. If they are not able to get this reauthorization approved, then the USACE should be responsible for all of the cost required to replace this water supply through development of other resources.

Comment ID: 22674

Author Name: Lucas, Barry
Organization:

This [developing other water supply resources] would include new reservoirs, inter-basin transfer piping, whatever is required. If the federal government were held accountable for the costs to remedy its own mistakes, then perhaps the federal government would be more cooperative in approving a solution.

Comment ID: 22675
Author Name: Lucas, Barry
Organization:

In regards to the updated Water Controls Manual: Buford Dam should operated to allow for existing and future increased water supply from the lake and immediately downstream. Regarding Forsyth County specifically: since a large area of Forsyth County was flooded by construction of the dam in the 1950's, the County should be granted a proportional amount of the impounded water for its existing and future water supply.

Comment ID: 22871
Author Name: Owens, Tony
Organization: MEADWESTVACO PACKAGING RESOURCES GROUP

2. Water Supply Is Not an Authorized Purpose of the Buford Dam Project (Lake Lanier). Like TRWDA, MWV's previous comments emphasized that the Corps must abide by the Congressionally authorized purposes of the ACF River System, and MWV sets forth the lawful project purposes for all five of the Corps' ACF reservoirs. The Court Order demonstrates that MWV and TRWDA applied the correct method to identify the Congressionally authorized purposes for the Corps' ACF projects. MWV cited the original statutes authorizing the construction of the reservoirs, as well as the specific Corps documents referenced in those statutes. For example, in the case of Lake Lanier, MWV cited primarily the 1946 Rivers and Harbors Act7 and the 1946 House of Representatives document.8 From those documents, MWV concluded that the three Congressionally authorized purposes of Lake Lanier are flood control, navigation, and hydropower. The Court Order cited the very same documents under the sub-heading of "Authorization," as well as additional legislative history.9 The Court Order then concluded that the primary purposes of Lake Lanier are in fact flood control, navigation, and hydropower.10 MWV's prior comments explained that water supply is not a Congressionally authorized purpose of the Buford Dam Project and Lake Lanier. The Court agreed as follows: Having thoroughly reviewed the legislative history and the record, the Court comes to the inescapable conclusion that water supply, at least in the form of withdrawals from Lake Lanier, is not an authorized purpose of the Buford project.11 The Court Order went on to explain that additional Congressional authorization would be required before the Corps could lawfully reallocate Lake Lanier storage for water supply regardless of what has been done in the past.12

Comment ID: 22856
Author Name: Perkins, Tim
Organization: Forsyth County Water

Updating the water control manuals should include possible increases of municipal and industrial water use as the

Judge's ruling is still under appeal. If you are not going to revise the manual due to the ruling that water supply was not an original use, then it would seem fitting that you would also not include other needs that were not covered in the original identified allocations. Things such as minimum flow for endangered species should not be considered. Hydropower would have been from the lake itself and not the needed flow for cooling water needed downstream. Releases for trout survival in an artificial trout stream would not have been allowed. Unless we are planning for the addition water needs above the original allocations the existing manual would continue to work. It seems to be a huge waste of tax dollars doing a study that will not determine if addition water can be provided.

Forsyth County citizens have rights to the water that flowed in the river before the lake was built. The existence of the lake has prohibited Forsyth County for obtaining easy access to the river for water supply.

If the judge's ruling is upheld and Congress does not reallocate storage in the lake, consideration should be given to Forsyth County to obtain our reasonable share of water from the lake equal to the supply that would have been available from the river. We would not be using any of the lakes storage and we would be forced to provide our own storage outside the boundaries of the lake if that happens.

Over 20 square miles of Forsyth County are flooded by the lake. Some of that land was taken from unwilling land owners, family farms were flooded, family graves flooded, and now almost all other users along the river have been able to obtain water needed for their use except for Forsyth County. We have been forced to acquire water from other sources at a greater cost to our citizens.

The lake itself is partially responsible for the increased water demand and growth of the area. The use of the parks, campgrounds and such brought the growth to this area. Water supply to support those needs should come from the lake.

While speaking at a conference I stated that it is un-American for a County on which the lake sits to be denied water supply from the lake. A person in the audience said, no, only in America could something like that happen.

It saddens me to believe that they are correct.

Tim Perkins
Forsyth County
Director of water and Sewer

Comment ID: 22769
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

Apalachicola Riverkeeper further urges the Corps to fully consider the following recommendations to help implement this alternative (or as components of other alternatives): • Impose restrictions on municipal water supply withdrawals that include: (a) prohibiting individual withdrawals if such withdrawals individually or cumulatively will affect the ability to maintain the necessary instream flows; (b) prohibiting specific withdrawals unless the municipality utilizing the withdrawal has demonstrated that it has implemented an enforceable source water protection program that includes the

protection of critical areas through such actions as the purchase of easements or lands and includes the enactment of regulations that promote low impact development; (c) prohibiting specific withdrawals unless the municipality utilizing the withdrawal has also demonstrated that it is utilizing water efficiently; and (d) prohibiting new or increased transfers of water into, out of, or between the ACF Basin and other watersheds or basins.

Comment ID: 22838
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Changes in ground water elevations;

Comment ID: 22841
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Changes in rainfall, and reasonably foreseeable future changes;

OTHER

CULTURAL RESOURCES

Comment ID: 22809
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

Cultural resources within the CRNRA are similarly impacted by water releases from Buford Dam. The Ivy Mill ruins in Roswell date back to the 1830's and are on the National Register of Historic Places. Ivy Mill is prone to flooding during protracted high water releases from Buford dam, which has contributed to site degradation. In addition to Ivy Mill, the NPS has documented dozens of archaeological sites within the CRNRA, many of which occur adjacent to the Chattahoochee River and its tributaries. These archaeological sites are at high risk of damage from accelerated erosion due to the bank-scouring effects caused by fluctuating releases from Buford Dam. A number of historic fish weirs within the CRNRA are also threatened or lost due to siltation, erosion and flooding related to the current water regime (Gerdes and Messer, 2007). The EIS should consider the impacts of rapidly fluctuating water levels to archeological and historic sites within CRNRA.

GEOLOGY AND SOILS

Comment ID: 22728
Author Name: Beason, Thomas
Organization: DEPARTMENT OF ENVIRONMENTAL PROTECTION

Changes in Apalachicola River channel morphology due to altered flows, including bank erosion.

Comment ID: 22806
Author Name: Brown, Daniel
Organization: NATIONAL PARK SERVICES

There are also significant physical impacts related to scheduled discharges from Buford Dam. Historically, naturally-occurring water level fluctuations within the Chattahoochee have been relatively slow and gradual. Conversely, the artificial conditions created by water releases dictated by peak power demands have resulted in abrupt changes that drastically alter conditions in the river within hours. Releases from Buford Dam have led to severe bank erosion, not only along the main stem of the Chattahoochee but also at all of the stream confluences due to backwash effects. The EIS should consider the impact of periodic high flow conditions on river and tributary banks and related increases in siltation. Siltation is a big concern for the park, as it leads to long-term habitat alterations that may negatively impact aquatic species. In particular, the EIS should evaluate the impact of dam operations on organisms that benefit from a gravel or rocky substrate, including trout, shoal bass, mussels, and macroinvertebrates. The NPS Southeast Region fisheries biologist noted the deleterious effect of accumulated silt on shoal bass and their habitat within the Chattahoochee River above Morgan Falls Dam. In addition, increasing sediment in Bull Sluice Lake has created a shallow water body optimal for the growth of exotic aquatic plant species.

Comment ID: 22882
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

Moreover, if the Corps' objective is to protect threatened and endangered species, the Corps should broaden the scope of the EIS to address the root cause of the problems alleged to be confronting them. The construction of Jim Woodruff Dam and the Corps' historical maintenance of the Apalachicola River channel have significantly affected the habitat available for the federally-listed species by deepening and widening the river channel and by the deposition of dredged material in the floodplain. For example, the lowering of the bed of the Apalachicola River at RM 105.5 that has occurred as a result of the mere presence of the dam has 40 times greater impact on the elevation of the water at that location than does the total consumptive water use of the metropolitan Atlanta area. Whereas dredging and scour at RM 105.5 have reduced the stage of the river at this point by about 5 feet, metro-area withdrawals lower it by about 2 inches. Thus, as an alternative to using the ACF Basin's scarce water resources to mitigate a problem caused by the degraded condition of the river bed, the Corps might consider fixing the riverbed below Woodruff Dam. See West/ands Water Dist. v. U.S. Dep't of Interior, 376 F.3d 853,863 (9th Cir. 2004) (affirming the Department of Interior's EIS in the context of reservoir management where it included "the use of non-flow measures, such as the mechanical removal of vegetation on the banks, the reshaping of the riverbed and banks, and the placement of appropriately sized gravel, to promote and sustain natural salmonid production" as aspects of various alternatives).

Comment ID: 22883
Author Name: Smarr, Lynn
Organization: GWINNET COUNTY WATER DEPARTMENT

Similarly, Swift Slough is threatened by a combination of channel incising and sedimentation caused by numerous factors having little or nothing to do with reservoir operations or water withdrawals. The Corps should consider addressing these issues through targeted dredging or by pumping water into the slough. It should also consider ways to address the enormous diversion of flow into the Chipola Cutoff immediately upstream of Swift Slough. The Chipola Cutoff is claiming an ever-increasing share of the mainstream of the river, now up to 40%. The effect of this diversion on the stage of the river at the head of Swift Slough is far greater than any effect caused by the operation of the reservoirs on the Chattahoochee River. Therefore the Corps should study alternatives to address these perceived problems.

Comment ID: 22836
Author Name: Tonsmeire, Dan
Organization: Apalachicola Riverkeeper

To establish the proper baseline, the Draft EIS should document and evaluate the historical changes in the ACF Basin with respect to the following indicators: •Miles of streambed lost or modified;
