



NEWS RELEASE

U.S. ARMY CORPS OF ENGINEERS

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USACE issues legal opinion to 11th Circuit Court of Appeals

MOBILE, Ala. – In June 2011, the Eleventh Circuit Court of Appeals reversed a 2009 district court decision stating water supply was not an authorized purpose at Lake Sidney Lanier, and directed that the case be remanded to the Corps to reconsider and make a final determination as to its legal authority to operate the Buford Project (Lake Lanier) to accommodate the water supply request submitted to the Secretary of the Army by the State of Georgia in 2000.

Based on a careful evaluation of the 1946 authorizing legislation, a supplemental 1956 act, and the Water Supply Act of 1958, the Corps today released its legal opinion and technical analysis finding that the Corps does have the legal authority to accommodate net withdrawals of 190 million gallons per day (mgd) annually from Lake Lanier, and to ensure flows of at least 1381 cubic feet per second (cfs) downstream at Atlanta, by the year 2030, as Georgia has requested.

“It’s important to note that this legal opinion only addresses whether the Corps has the legal authority to operate the project to accommodate Georgia’s request,” E. Patrick Robbins, Public Affairs Officer said. “It does not in any manner indicate the Corps must, should or will exercise its discretion to operate the project to meet the request.”

Prior to making any final decision to reallocate storage for water supply, to implement a new operational scheme, or to implement updated water control manuals reflecting such decisions, the Corps would be required to evaluate the environmental effects and reasonable alternatives under the National Environmental Policy Act (NEPA) with appropriate public participation in the process.

“We anticipate reissuing a Notice of Intent and resuming the update of the water control manuals for the ACF system within the next 90 days,” Robbins said. “The manuals update process will consider accommodating some level of water supply in response to Georgia’s request, as well as operational changes anticipated from technical information gained since the last water control manuals were approved.”

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2-2-2-2 Legal opinion; USACE issues

Anyone interested in reading the legal opinion and associated technical analysis can find them on the Mobile District's web site at www.sam.usace.army.mil/2012ACF_legalopinion.pdf, www.sam.usace.army.mil/2012ACF_hydropowerstudy and www.sam.usace.army.mil/2012ACF_technicalanalysis.pdf.

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