

No. 142, Original

**In The
Supreme Court of the United States**

STATE OF FLORIDA,

Plaintiff

v.

STATE OF GEORGIA,

Defendant

Before the Special Master

Hon. Ralph I. Lancaster

**MOTION OF AMERICAN PEANUT SHELLERS ASSOCIATION
AND GEORGIA FRUIT AND VEGETABLE GROWERS ASSOCIATION
FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

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**MOTION OF AMERICAN PEANUT SHELLERS ASSOCIATION
AND GEORGIA FRUIT AND VEGETABLE GROWERS ASSOCIATION
FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Pursuant to Case Management Order 20, the American Peanut Shellers Association (“APSA”) and the Georgia Fruit and Vegetable Growers Association (“GFVGA”) (collectively “Proposed Amici”) move for leave to file an amicus brief, and show the following:

A. The Proposed Amici

The APSA and GFVGA represent farmers and industries that depend upon irrigation in the Flint River Basin for their economic survival. The APSA is a non-profit trade association composed of commercial peanut shellers and crushers located in Alabama, Florida and Georgia. Chartered in 1919, the APSA is the oldest organized group in the peanut industry. Georgia is the leading peanut producer in the country and annually produces peanuts with a farm gate value of over \$550 million, which generates economic activity well in excess of \$1.1 billion. The Flint River Basin is home to seven¹ of the top ten Georgia counties in peanut production.

The GFVGA represents hundreds of Georgia fruit and vegetable growers, ranging in size from relatively small individual farmers to companies with annual

¹ 2014 GEORGIA FARM GATE VALUE REPORT, University of Georgia College of Agricultural & Environmental Sciences, www.caes.uga.edu/center/caed, *last visited*, September 16, 2016 (the “FARM GATE REPORT”), at pages 26-27. Worth County, half of which lies within the Flint River Basin, ranks fifth in the state in the farm gate value of its peanut production.

gross sales in excess of \$10 million. The farm gate value of vegetables and fruits in Georgia is in excess of \$1.79 billion annually.² The Flint River Basin is home to seven of the top twenty Georgia counties in vegetable production and five of the top ten Georgia counties in fruit production.³

B. The Interest of the Proposed Amici in this Case

The livelihood of virtually every peanut, fruit and vegetable farmer in the Flint River Basin, and scores of related industries, depends upon reliable groundwater and surface water irrigation. In this case, the State of Florida seeks relief in the form of caps on Georgia's consumption of water. (Compl. at 21, Prayer for Relief). As the Special Master stated in the June 19, 2015 Order on State of Georgia's Motion to Dismiss for Failure to Join a Required Party, "Florida's claim will live or die based on whether Florida can show that a consumptive cap is justified and will afford adequate relief." (Doc. 118, at 13). Since the United States Army Corps of Engineers cannot be made a party to the case, a particular focus of Florida's case will be the consumptive use of water in the Flint River Basin. Relief in the form of caps on irrigation in the Flint River Basin would have a direct, immediate, concrete and possibly devastating impact upon the farmers and industries represented by the Proposed Amici.

² FARM GATE REPORT, pages 60, 94.

³ *Id.*

C. Content of Proposed Amicus Brief

If granted leave, the Proposed Amici will brief the following issues relating to irrigation in the Flint River Basin to ensure a complete presentation of the issue and all of its critical implications. First, the Proposed Amici will explain the practical and economic aspects of how peanut, fruit and vegetable farmers in the Flint River Basin irrigate their crops today, including the investment in irrigation infrastructure, crop rotation, the high cost of over-irrigation, and recent technological innovations. Second, and closely related, the Proposed Amici will address the overall reasonableness and efficiency of irrigation in the Flint River Basin. *See Nebraska v. Wyoming*, 325 U.S. 589, 618 (1945).

Third, the Proposed Amici will explain the current regulatory regime from the perspective of the farmers, and explore the practical impact -- and possible unintended consequences -- of caps on irrigated acreage or volumetric limits on irrigation permits. *See Colorado v. New Mexico*, 467 U.S. 310, 319 (1984) (“Our cases require only conservation measures that are ‘financially and physically feasible’ and ‘within practicable limits.’” (citations omitted)).

For the foregoing reasons, the Motion for Leave should be granted.

Respectfully submitted this 16th day of September, 2016.



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CERTIFICATE OF SERVICE

This is to certify that the Motion of American Peanut Shellers Association and Georgia Fruit and Vegetable Growers Association for Leave to File Amicus Curiae Brief has been served on this 16th day of September 2016, in the manner specified below:

For State of Florida

By U.S. Mail and Email

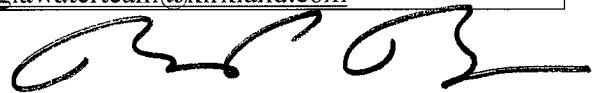
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