
From: Philip.Perry@lw.com
Sent: Monday, October 26, 2015 2:38 PM
To: Joshua D. Dunlap; cprimis@kirkland.com; allen.winsor@myfloridalegal.com; Ralph Lancaster
Cc: Mary Clifford; FloridaWaterTeam@foley.com; GeorgiaWaterTeam@kirkland.com; supremectbriefs@usdoj.gov; michael.gray2@usdoj.gov; james.dubois@usdoj.gov
Subject: RE: Letter from Florida and Georgia
Attachments: FL v GA No. 142 Orig 10.26.2015 Letter.pdf; 2015 01 12 - Florida RFP to Georgia.pdf; Georgia Water Planning & Policy Center.pdf; 2015.03.13 - Florida Second RFPs to Georgia.pdf; Albany State University.pdf

Special Master Lancaster:

Please find attached a letter from Florida, along with the Florida document production requests and third party subpoenas requested by Mr. Dunlap's email below. Florida's letter also very briefly responds to Georgia's letter to the Court this morning.

Sincerely,

Phil Perry
Counsel for Florida

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

FLORIDA'S FIRST REQUEST FOR PRODUCTION TO THE STATE OF GEORGIA

Plaintiff, the State of Florida, hereby requests that the Defendant, the State of Georgia, produce the following documents, pursuant to Rule 34 of the Federal Rules of Civil Procedure, as modified by and in accordance with the deadlines and conditions set forth in Case Management Orders 1 and 2.

INSTRUCTIONS

1. Documents produced in response to this request should reflect in some manner the numbered request to which they are responsive.
2. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.

3. No request should be interpreted as an implicit or explicit restriction on any other request for production.

4. The singular number and masculine gender as used herein shall embrace, and be read and applied as, the plural or the feminine or the neuter, as the circumstances may make appropriate, and in order to make the request inclusive rather than exclusive.

5. Unless otherwise defined herein, each word or term shall have the meaning ascribed to it in Webster's Ninth New Collegiate Dictionary.

DEFINITIONS

To simplify presentation, the terms utilized herein have the following meanings:

1. "And" and "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.

2. "Agricultural Consumption / Irrigation Data" means the location of use, the number of acres irrigated, the crop type (with corresponding irrigation depths and applicable irrigation schedule), the irrigation technology applied, monthly diversion, crop evapotranspiration, and return flow amounts.

3. "Agricultural water use" means the application of water to produce one or more commercially salable crops, or to support or produce livestock, and all related storage facilities. Agricultural water use does not include the application of water to support domestic gardens less than one (1) acre in size.

4. "Climate Change" means a statistically significant change in the measures of climate lasting for an extended period of time, such as changes in temperature, precipitation, or wind patterns, among others, that occur over several decades or longer.

5. “Conservation Data” means the identification of each particular conservation measure in place, the date each such measure was implemented, the cost of each such measure and source of funding, the estimated volume of water savings associated with each such measure, and the extent to which that measure has been implemented throughout the relevant service area or geographic area.

6. “Cost Data” means the annual operation, maintenance and replacement costs associated with a manufacturing, industrial, or agricultural water supply system.

7. “Document” as used herein refers to all electronically stored information (as defined in the Federal Rules of Civil Procedure, and the commentary thereto) as well as all written or graphic matter, however produced or reproduced, of every kind and description, whether produced internally or received from an outside source, including, without limitation, records, files, papers, books, letters, feasibility studies, objects, tangible things, correspondence, communications, emails, telegrams, memoranda, inter-office communications, bulletins, reports, studies, surveys, contracts, licenses, permits, permit applications, agreements, ledgers, books of account, computer printouts and other computer materials, transcripts, analyses, proposals, suggestions, legal pleadings, legal documents, orders, consent orders, vouchers, working papers or drafts, statistical records, notebooks, calendars, appointment books, diaries, agendas, time sheets, logs, bids, job or transaction files, notations, notes, sound records of any type, phonorecords or tape recordings or other data compilations from which information can be obtained, any transcriptions thereof, bulletins, circulars, press releases, notices, instructions, advertisements, work assignments, motion picture films, videotapes, research, or other articles and treatises, including all attachments and enclosures thereto.

8. “Groundwater Elevation Data” means the elevation of the ground surface and the depth to groundwater below the ground surface at any and all locations in the Chattahoochee and Flint River Basins.

9. “Model” means any conceptual description or approximation that describes physical systems using mathematical equations, including, without limitation analytical and numerical models, any tool for the analysis of water budgets, climate, water levels, river flows, and ecological response. The term “Model” includes all surface water, groundwater, integrated surface water/groundwater, and hydraulic analysis tools. Models should include all mechanistic and statistical models. Mechanistic models include process models that simulate hydrologic processes using engineering or mechanistic relationships. Statistical models include, but are not limited to trend analyses, regression analyses, and artificial neural network analyses.

10. “Municipal and Industrial (M&I) Consumption Data” means the location of water use, the type of use, the source water supply, monthly use volumes, the means by which measurement of the use was taken, and return flow information.

11. “Person” or “persons” mean any individual, partnership, corporation, company, association, government agency (whether federal, state, or local), or any other entity.

12. “Public water supply provider” means any governmental or non-governmental entity providing domestic, municipal or industrial water service, and having fifteen (15) or more service connections.

13. “Relate to,” “relating to” or “related to” means to constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.

14. “Return Flow Data,” used within the context of an agricultural use, means the volume of surface or subsurface water leaving an irrigated field after an irrigation application, *excluding* stormwater runoff. The term “Return Flow Data” in the context of a municipal or industrial use means the volume of water exiting a public water supply provider’s water distribution system, *excluding* stormwater runoff.

15. “Storage Data” means the size, location, depth and use type of all water storage facilities located within the Chattahoochee and Flint River Basins.

16. “Storage Facility” means any earthen structure, impoundment, or dam designed to retain, store, impound or retine surface water or groundwater, including runoff, which exceeds fifteen (15) acre feet.

17. “Source Data” means identification of all current and projected water sources, along with diversion type (*e.g.*, well) for any municipal, industrial, or agricultural water use within the Chattahoochee and Flint River Basins.

18. “Source water supply” means a supply derived from surface water, groundwater, or hydrologically connected waters arising in or contributing to the flow of the Chattahoochee or Flint Rivers.

19. “Water” means surface water, groundwater, and hydrologically connected waters arising in or contributing to the flow of rivers within the Chattahoochee or Flint River Basin.

20. “Water user” means all agricultural users and all public water supply providers.

21. “You” or “your” means the State of Georgia, its political subdivisions, all quasi-governmental agencies affiliated with the State of Georgia or performing non-delegable government duties for the State of Georgia, and any other persons, agents, consultants, representatives, or others acting on Georgia’s behalf, or others who have documentation within

the possession, custody, or control of the State of Georgia (including, without limitation, the Upper Flint Regional Water Planning Council, Lower Flint-Ochlockonee Regional Water Planning Council, Middle Chattahoochee Regional Water Planning Council, Metropolitan North Georgia Water Planning District, and the Flint River Soil & Water Conservation District).

REQUESTS FOR PRODUCTION

1. All documents identified in your answers to the State of Florida's Interrogatories.
2. All documents utilized, relied upon in formulating, referenced in, or otherwise supporting your answers to the State of Florida's Interrogatories.
3. All documents utilized, relied upon in formulating, referenced in, or otherwise supporting your First Defense.
4. All documents utilized, relied upon in formulating, referenced in, or otherwise supporting your Second Defense.
5. All documents utilized, relied upon in formulating, referenced in, or otherwise supporting your Third Defense.
6. All documents utilized, relied upon in formulating, referenced in, or otherwise supporting your Fourth Defense.
7. All documents utilized, relied upon in formulating, referenced in, or otherwise supporting your Fifth Defense.
8. All documents utilized, relied upon in formulating, referenced in, or otherwise supporting the Affidavit of Jud Turner dated January 10, 2013.
9. All Municipal and Industrial Consumption Data for the Chattahoochee and Flint River Basins.
10. All Agricultural Consumption/Irrigation Data for the Chattahoochee and Flint River Basins.
11. All Conservation Data for the Chattahoochee and Flint River Basins.
12. All Cost Data for the Chattahoochee and Flint River Basins.
13. All Return Flow Data (both Municipal/Industrial and Agricultural) for the Chattahoochee and Flint River Basins.

14. All groundwater elevation data for the Chattahoochee and Flint River Basins.
15. All Storage Data.
16. All Source Data.
17. All documents relating to water supply sources available to service existing water demands in the Chattahoochee and Flint River Basins, and/or the costs associated with each such source.
18. All documents relating to water supply sources available to service projected future water demands in the Chattahoochee and Flint River Basins, and/or the costs associated with each such source.
19. All documents relating to population projections for the service area of each public water supply provider in the Chattahoochee and Flint River Basins, including any associated water demand projections.
20. All documents relating to future agricultural production projections in the Chattahoochee and Flint River Basins, including the projected number of irrigated and non-irrigated acres, projected crop types, and projected irrigation technologies.
21. All documents relating to the economic costs or benefits associated with water uses (*e.g.*, M&I, agricultural, recreational, etc.) in the Chattahoochee and Flint River Basins, including without limitation water rates and charges, any flat fees or hookup charges, and volumetric fees.
22. All documents relating to the impact of water use on river flows, including any channels, creeks, streams, and tributaries of all classes, in the Chattahoochee and Flint River Basins.
23. All documents relating to the effects or impacts of Climate Change and/or climatic conditions on water resources in the Chattahoochee and Flint River Basins.
24. All documents relating to the hydrologic needs of river dependent species in the Chattahoochee or Flint River Basins.
25. All documents relating to water resource and/or conservation planning studies.
26. All permits issued authorizing manufacturing, industrial, or agricultural water use in the Chattahoochee and Flint River Basins (ground and/or surface water diversions) along with documentation relating to the present status (*e.g.*, active/inactive) of each such permit.
27. All documents relating to actual ground and/or surface water diversions within the Chattahoochee and Flint River Basins.

28. All applications, including pending applications, for water uses in the Chattahoochee and Flint River Basins, and projections for any future applications regarding water use through 2040.

29. All Models (including all associated input parameters, boundary conditions, calibration targets, and reports describing the purpose and development of same) relating to and/or used to evaluate:

(a) the hydrologic impact of water uses in the Chattahoochee or Flint River Basin;

(b) inflows to Apalachicola Bay in Florida;

(c) the health and status of oyster populations in Apalachicola Bay;

(d) rainfall within and runoff from the Chattahoochee and Flint River Basins;

(e) the hydrology of the Chattahoochee and Flint River Basins;

(f) the hydrologic impact of U.S. Army Corps of Engineers operations on the Chattahoochee or Flint River Basin; and/or

(g) economic valuations (past, present, or projected) of water uses in the Chattahoochee or Flint River Basins.

30. The HSPF Model, and all documents relating to such model.

31. All documents relating to water sources required to meet projected future water demands in the Chattahoochee and Flint River Basins, including documents relating to costs associated with each source.

32. All documents relating to current population statistics and future projections for the service area of each public water supply provider in the Chattahoochee and Flint River Basins, including without limitation associated water demand needs and future projections.

33. All documents relating to future projections for the Chattahoochee and Flint River Basins of numbers of households by type (SFR and MFR), land uses, population per household and household income.

34. All documents relating to agricultural production statistics in the Chattahoochee and Flint River Basins, including without limitation the number of irrigated and non-irrigated acres, crop types, farming methodology and irrigation technologies.

35. All documents relating to the impact of water use on river flows, including any channels, creeks, streams, and tributaries of all classes, in the Chattahoochee and Flint River Basins.

36. All documents relating to legislative proposals and/or executive branch initiatives relative to water management within the Chattahoochee and Flint River Basins.

37. All documents relating to wildlife resources, species management, habitat management, and/or the impacts of water consumption on same within the Apalachicola, Chattahoochee and Flint River Basins.

CERTIFICATE OF SERVICE

This is to certify that the foregoing State of Florida's First Requests for Production has been served on this 12th day of January 2015, in the manner specified below:

For State of Florida

By U.S. Mail and Email:

Allen Wilson
Solicitor General
Counsel of Record
Office of Florida Attorney General
The Capital, PL-01
Tallahassee, FL 32399
T: 850-414-3300
Allen.Winsor@myfloridalegal.com

By Email Only:

Donald G. Blankenau
Jonathon A. Glogau
Christopher M. Kise
Matthew Z. Leopold
Osvaldo Vazquez
Thomas R. Wilmoth
Floridawaterteam@foley.com

For United States of America

By U.S. Mail and Email:

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Solicitor General
Counsel of Record
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Washington, DC 20530
T: 202-514-7717
supremectbriefs@usdoj.gov

By Email Only:

Michael T. Gray
Michael.Gray2@usdoj.gov

James DuBois
James.Dubois@usdoj.gov

For State of Georgia

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By Email Only:

Samuel S. Olens
Nels Peterson
Britt Grant
Seth P. Waxman
K. Winn Allen
Georgiawaterteam@kirkland.com

/s/Christopher M. Kise
Christopher M. Kise
Foley & Lardner LLP

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WWW.FOLEY.COM

WRITER'S DIRECT LINE
407.244.7136
alosey@foley.com EMAIL

CLIENT/MATTER NUMBER
079094-0101

July 13, 2015

Mr. Mark Masters, Director
Georgia Water Planning and Policy Center
125 Pine Avenue, Suite 232
Albany, GA 31701

Re: No. 142, Original
In the Supreme Court of the United States
State of Florida v. State of Georgia

Dear Mr. Masters:

Enclosed with this letter and hereby served upon you is a Subpoena for Production of Documents requesting that the Georgia Water Planning and Policy Center provide counsel for the State of Florida with certain documents relevant to the above action pending in the United States Supreme Court.

Upon receipt, I ask that you contact Vanessa Silke to discuss your response to the enclosed subpoena and to resolve any questions you may have. Ms. Silke can be reached at (402) 904-4569 or at Vanessa@aqualawyers.com.

Thank you in advance for your anticipated compliance with the subpoena obligations.

Sincerely,

/s/ Adam C. Losey

Adam C. Losey

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN FRANCISCO
SHANGHAI
SILICON VALLEY

TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

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

SUBPOENA FOR PRODUCTION OF DOCUMENTS

Pursuant to the Case Management Plan in the above-captioned matter, the pertinent portion of which is attached hereto as Exhibit A, and Rules 34 and 45 of the Federal Rules of Civil Procedure, as incorporated by the Case Management Plan, the Georgia Water Planning and Policy Center (“you”) is hereby **ORDERED** to produce and make available electronically to the State of Florida and its attorneys, or provide by mutually agreed alternative means, the documents within your possession, custody, or control specified below. The documents may be made available electronically in native format or by permitting inspection or copying by counsel for the State of Florida at a mutually agreed upon time and place subject to reasonable notice.

For ease of production, all electronically stored information can be produced via a secure file transfer protocol site that will be provided free of charge or via electronic storage media that will be provided to you at no charge and upon your request. Any requests for assistance with the

transmittal of electronically stored documents, or coordination of the inspection of documents should be made to Vanessa Silke, counsel for the State of Florida, who may be reached by telephone at (402) 904-4569 and by email at vanessa@aqualawyers.com. The provisions of Rule 45(d) and (e) of the Federal Rules of Civil Procedure are set forth, as required by Rule 45(a)(1)(A)(iv) of the Federal Rules of Civil Procedure, in Exhibit B, attached hereto.

This Subpoena is issued pursuant to Fed. R. Civ. P. 45(a)(3)(B) by Adam C. Losey, counsel for the State of Florida, whose address appears below. A copy of the pertinent portions of Fed. R. Civ. P. 45 is attached as Exhibit B. **Please review the instructions and definitions carefully, as the chain of custody, method of forensic copying, collection, and production of electronically stored information requires your attention and supervision.**

INSTRUCTIONS

1. Pursuant to the Case Management Plan, as modified by Case Management Order No. 4, you shall have thirty (30) days from the date of service of this subpoena to serve objections and begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production.

2. Pursuant to the Case Management Plan, as modified by Case Management Order No. 4, if you anticipate that full production will require more than one hundred and twenty (120) days from service, you shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened on the issue.

3. Pursuant to the Case Management Plan, a copy of Section 11 of the Case Management Plan is attached hereto as Exhibit A. You may seek relief under the Case Management Plan for an unresolved discovery dispute by submitting a discovery dispute to the Special Master pursuant to the procedures outlined in Section 11.

4. Documents produced in response to this request should reflect in some manner the numbered request to which they are responsive.

5. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.

6. No request should be interpreted as an implicit or explicit restriction on any other request for production.

7. The singular number and masculine gender as used herein shall embrace, and be read and applied as, the plural or the feminine or the neutral, as the circumstances may make appropriate, and in order to make the request inclusive rather than exclusive.

8. Unless otherwise defined herein, each word or term shall have the meaning ascribed to it in Webster's Ninth New Collegiate Dictionary.

DEFINITIONS

To simplify presentation, the terms utilized herein have the following meanings:

1. “And” and “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.

2. “Agricultural Consumption / Irrigation Data” means the location of use, the number of acres irrigated, the crop type (with corresponding irrigation depths and applicable irrigation schedule), the irrigation technology applied, monthly diversion, crop evapotranspiration, and return flow amounts.

3. “Agricultural water use” means the application of water to produce one or more commercially salable crops, or to support or produce livestock, and all related storage facilities. Agricultural water use does not include the application of water to support domestic gardens less than one (1) acre in size.

4. “Conservation Data” means the identification of each particular conservation measure in place, the date each such measure was implemented, the cost of each such measure and source of funding, the estimated volume of water savings associated with each such measure, and the extent to which that measure has been implemented throughout the relevant service area or geographic area.

5. “Cost Data” means the annual operation, maintenance and replacement costs associated with a manufacturing, industrial, or agricultural water supply system.

6. “Document” as used herein refers to all electronically stored information (as defined in the Federal Rules of Civil Procedure, and the commentary thereto) as well as all written or graphic matter, however produced or reproduced, of every kind and description,

whether produced internally or received from an outside source, including, without limitation, records, files, papers, books, letters, feasibility studies, objects, tangible things, correspondence, communications, email, telegrams, memoranda, inter-office communications, bulletins, reports, studies, surveys, contracts, licenses, permits, permit applications, agreements, ledgers, books of account, computer printouts and other computer materials, transcripts, analyses, proposals, suggestions, legal pleadings, legal documents, orders, consent orders, vouchers, working papers or drafts, statistical records, notebooks, calendars, appointment books, diaries, agendas, time sheets, logs, bids, job or transaction files, notations, notes, sound records of any type, phono-records or tape recordings or other data compilations from which information can be obtained, any transcriptions thereof, bulletins, circulars, press releases, notices, instructions, advertisements, work assignments, motion picture films, videotapes, research, or other articles and treatises, including all attachments and enclosures thereto.

7. “Groundwater Elevation Data” means the elevation of the ground surface and the depth to groundwater below the ground surface at any and all locations in your jurisdiction.

8. “Municipal and Industrial (M&I) Consumption Data” means the location of water use, the type of use, the source water supply, monthly use volumes, the means by which measurement of the use was taken, and return flow information.

9. “Person” or “persons” means any individual, partnership, corporation, company, association, government agency (whether federal, state, or local), or any other entity.

10. “Relate to,” “relating to” or “related to” means to constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.

11. “Return Flow Data,” used within the context of an agricultural use, means the volume of surface or subsurface water leaving an irrigated field after an irrigation application, *excluding* stormwater runoff. The term “Return Flow Data” in the context of a municipal or industrial use means the volume of water exiting a public water supply provider’s water distribution system, *excluding* stormwater runoff.

12. “Storage Data” means the size, location, depth and use type of all water storage facilities located within your jurisdiction.

13. “Storage Facility” means any earthen structure, impoundment, or dam designed to retain, store, impound or retine surface water or groundwater, including runoff, which exceeds fifteen (15) acre feet.

14. “Source Data” means identification of all current and projected water sources, along with diversion type (*e.g.*, well) for any municipal, industrial, or agricultural water use within your jurisdiction.

15. “You” or “your” means the Georgia Water Planning and Policy Center, all quasi-governmental agencies affiliated with the Georgia Water Planning and Policy Center or performing non-delegable government duties for the Georgia Water Planning and Policy Center, and any other persons, agents, consultants, representatives, or others acting on the Georgia Water Planning and Policy Center’s behalf, or others who have documentation within the possession, custody, or control of the Georgia Water Planning and Policy Center. “Your jurisdiction” refers to the geographic and/or administrative reach of the Georgia Water Planning and Policy Center.

REQUESTS FOR PRODUCTION

1. All Municipal and Industrial Consumption Data.
2. All Agricultural Consumption/Irrigation Data.
3. All Conservation Data.
4. All Cost Data.
5. All Groundwater Elevation Data.
6. All Return Flow Data (both Municipal/Industrial and Agricultural).
7. All Storage Data.
8. All Source Data.
9. All documents relating to water supply sources available to service existing water demands, and/or the costs associated with each such source.
10. All documents relating to water supply sources available to service projected future water demands, and/or the costs associated with each such source.
11. All documents relating to agricultural production statistics, including without limitation the number of irrigated and non-irrigated acres, crop types, farming methodology and irrigation technologies.
12. All documents relating to future agricultural production projections, including without limitation the projected number of irrigated and non-irrigated acres, projected crop types, and projected irrigation technologies.
13. All documents relating to the economic costs or benefits associated with water uses (*e.g.*, M&I, agricultural, recreational, etc.), including without limitation water rates and charges, any flat fees or hookup charges, and volumetric fees.
14. All permits issued authorizing manufacturing, industrial, or agricultural water use in your jurisdiction (ground and/or surface water diversions) along with documentation relating to the present status (*e.g.*, active/inactive) of each such permit.
15. All documents relating to actual ground and/or surface water diversions.
16. All applications, including pending applications, for water uses in your jurisdiction, and projections for any future applications regarding water use through 2040.
17. All documents relating to current population statistics and future projections, including without limitation associated water demand needs and future projections.

18. All documents relating to future projections of numbers of households by type (SFR and MFR), land uses, population per household and household income.

Dated: July 13, 2015

/s/ Adam Losey
Christopher M. Kise
Adam C. Losey
Foley & Lardner LLP
106 E. College Ave., Suite 900
Tallahassee, FL 32301-7748
Tel.: 850-513-3367

No. 142, Original

**In the
SUPREME COURT OF THE UNITED STATES**

STATE OF FLORIDA,

Plaintiff

v.

STATE OF GEORGIA,

Defendant

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT PLAN

December 3, 2014

EXHIBIT A

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have twenty (20) days from the date of service to serve objections and to begin producing documents, and thirty (30) days for full production. If either a party or the non-party anticipates that full production will require more than thirty (30) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

A party may serve requests for admission on the other party. Each party served with requests for admission shall have ten (10) days from the date of service to serve objections and thirty (30) days from the date of service to respond.

6.2 Deposition Discovery

Unless they agree to proceed sooner, the parties may schedule depositions to begin on or after April 20, 2015. Depositions will be conducted in accordance with the guidelines attached hereto as Appendix C.

document(s) sought to be sealed and a redacted version of the document(s) sought to be sealed. The motion shall propose specific findings as to the need for sealing and the necessary duration of sealing. The motion shall include a statement as to whether there is agreement of the parties to the sealing.

10.2.2 Objection

Any objection to a motion to seal shall be filed with the Special Master within seven (7) days of filing of the motion to seal.

10.2.3 Order

In issuing an order to seal all or a portion of a document or documents as confidential, the Special Master may incorporate by reference the proposed findings in the motion. If the motion is denied, the unredacted version of the document(s) shall be made publicly available.

11. Resolution Of Discovery Disputes And Motions To Quash And Seek Protective Orders

Before bringing a discovery dispute to the attention of the Special Master, the parties shall confer in an attempt to resolve the dispute. It shall be the responsibility of the moving party to initiate the conference immediately following the identification of the dispute. Failure promptly to initiate the conference, failure to respond promptly to the initiation or failure to cooperate in dispute resolution may result in an adverse ruling regardless of the merits. If the conferences do not resolve the dispute, the procedure for resolving the discovery dispute shall be as follows:

11.1 Disputes Pertaining To Written Discovery

11.1.1 Failure To Timely Respond To Written Discovery Requests

In the event that timely responses to written interrogatories or document requests are not forthcoming, the proponent of the discovery should promptly file a motion to compel, which shall set forth the date the discovery was served and the due date for the responses, together with an averment of the default. No brief or copy of the interrogatories or document requests should accompany the motion. Upon receipt of such a motion, the Special Master, without waiting for a response, may enter an order directing the discovery be provided by a certain date and including such sanctions as he deems appropriate.

11.1.2 Disputes Regarding Discovery Objections Or Adequacy Of Responses

In the event of a discovery dispute – in contrast to a default – arising by reason of the respondent’s objections or concerning the adequacy of responses to interrogatories, document requests, requests to inspect, or requests to admit, the parties shall promptly and in good faith exert every reasonable effort to resolve their differences. Where objections are made, the objecting party shall provide all other discovery that such party does not consider to be objectionable. As a last resort, any unresolved dispute shall be submitted to the Special Master as follows:

11.1.2.1 The party seeking resolution of a dispute shall send an email to the Special Master, attaching a copy of the pertinent

discovery request and response or objection. The email may also contain a short summary statement of each party's position, drafted or approved by that party, and not to exceed 75 words each. The Special Master will then schedule a telephone call with counsel.

11.1.2.2 If the dispute is not resolved telephonically, the parties shall make a written submission as instructed by the Special Master.

12. Deposition Disputes

12.1 General Procedures

Except as is expressly provided in paragraph 12.2 below, discovery disputes that arise during a deposition shall be resolved by submission to the Special Master, according to the same procedure set forth in section 11 governing disputes in regard to the adequacy of responses to written discovery.

12.2 Disputes That Require Immediate Resolution

Where a dispute arises at a deposition and a party believes an immediate resolution is necessary to avoid the re-scheduling of the deposition or a significant disruption of the discovery schedule, the Special Master shall be telephoned.

12.2.1 If the Special Master is available and a telephone conference is held, the ruling of the Special Master shall be recorded in the deposition. The deposition shall proceed according to such ruling or direction. If the ruling or direction is that a witness must answer a question or questions despite an objection based upon claim of privilege or work product, the

No. 142, Original

**In the
SUPREME COURT OF THE UNITED STATES**

STATE OF FLORIDA,

Plaintiff

v.

STATE OF GEORGIA,

Defendant

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT ORDER NO. 4

February 10, 2015

CASE MANAGEMENT ORDER NO. 4

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:


In response to multiple requests for an extension of time by third parties who have received subpoenas in the present proceeding and in light of the consent to an extension by both Florida and Georgia, the schedule established in the Case Management Plan (“CMP”) and modified by Case Management Order No. 2 is hereby further modified as set forth herein.

Section 6.1.3 of the CMP is amended to read as follows:

Each party may serve on non-parties requests for production of documents / requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production. If either party or the non-party anticipates that full production will require more than one hundred and twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall inform the non-party of these deadlines.

Florida and Georgia should give notice to any subpoenaed third parties of the foregoing modification to the third parties’ deadline for production of documents.

Dated: February 10, 2015



Ralph I. Lancaster
Special Master

Pierce Atwood LLP
Merrill's Wharf
254 Commercial Street
Portland, ME 04101
Tel: (207) 791-1100
Fax: (207) 791-1350
Email: rlancaster@pierceatwood.com

(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney’s fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party’s officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert’s opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 26, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. § 1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.

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

FLORIDA'S SECOND SET OF REQUESTS FOR PRODUCTION TO GEORGIA

Plaintiff, the State of Florida, requests that the Defendant, the State of Georgia, produce the following documents, pursuant to Rule 34 of the Federal Rules of Civil Procedure, as modified by and in accordance with the deadlines and conditions set forth in the Case Management Orders entered in this proceeding.

INSTRUCTIONS

1. Documents produced in response to this request should reflect in some manner the numbered request to which they are responsive.
2. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.

3. No request should be interpreted as an implicit or explicit restriction on any other request for production.

4. The singular number and masculine gender as used herein shall embrace, and be read and applied as, the plural or the feminine or the neuter, as the circumstances may make appropriate, and in order to make the request inclusive rather than exclusive.

5. Unless otherwise defined herein, each word or term shall have the meaning ascribed to it in Webster's Ninth New Collegiate Dictionary.

DEFINITIONS

To simplify presentation, the terms utilized herein have the following meanings:

1. "And" and "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.

2. "Agricultural Consumption / Irrigation Data" means the location of use, the number of acres irrigated, the crop type (with corresponding irrigation depths and applicable irrigation schedule), the irrigation technology applied, monthly diversion, crop evapotranspiration, and return flow amounts.

3. "Agricultural water use" means the application of water to produce one or more commercially salable crops, or to support or produce livestock, and all related storage facilities. Agricultural water use does not include the application of water to support domestic gardens less than one (1) acre in size.

4. "Climate Change" means a statistically significant change in the measures of climate lasting for an extended period of time, such as changes in temperature, precipitation, or wind patterns, among others, that occur over several decades or longer.

5. "Conservation Data" means the identification of each particular conservation measure in place, the date each such measure was implemented, the cost of each such measure and source of funding, the estimated volume of water savings associated with each such measure, and the extent to which that measure has been implemented throughout the relevant service area or geographic area.

6. "Cost Data" means the annual operation, maintenance and replacement costs associated with a manufacturing, industrial, or agricultural water supply system.

7. "Document" as used herein refers to all electronically stored information (as defined in the Federal Rules of Civil Procedure, and the commentary thereto) as well as all written or graphic matter, however produced or reproduced, of every kind and description, whether produced internally or received from an outside source, including, without limitation, records, files, papers, books, letters, feasibility studies, objects, tangible things, correspondence, communications, emails, telegrams, memoranda, inter-office communications, bulletins, reports, studies, surveys, contracts, licenses, permits, permit applications, agreements, ledgers, books of account, computer printouts and other computer materials, transcripts, analyses, proposals, suggestions, legal pleadings, legal documents, orders, consent orders, vouchers, working papers or drafts, statistical records, notebooks, calendars, appointment books, diaries, agendas, time sheets, logs, bids, job or transaction files, notations, notes, sound records of any type, phonorecords or tape recordings or other data compilations from which information can be obtained, any transcriptions thereof, bulletins, circulars, press releases, notices, instructions, advertisements, work assignments, motion picture films, videotapes, research, or other articles and treatises, including all attachments and enclosures thereto.

8. “Groundwater Elevation Data” means the elevation of the ground surface and the depth to groundwater below the ground surface at any and all locations in the Chattahoochee and Flint River Basins.

9. “Model” means any conceptual description or approximation that describes physical systems using mathematical equations, including, without limitation analytical and numerical models, any tool for the analysis of water budgets, climate, water levels, river flows, and ecological response. The term “Model” includes all surface water, groundwater, integrated surface water/groundwater, and hydraulic analysis tools. Models should include all mechanistic and statistical models. Mechanistic models include process models that simulate hydrologic processes using engineering or mechanistic relationships. Statistical models include, but are not limited to trend analyses, regression analyses, and artificial neural network analyses.

10. “Municipal and Industrial (M&I) Consumption Data” means the location of water use, the type of use, the source water supply, monthly use volumes, the means by which measurement of the use was taken, and return flow information.

11. “Person” or “persons” mean any individual, partnership, corporation, company, association, government agency (whether federal, state, or local), or any other entity.

12. “Public water supply provider” means any governmental or non-governmental entity providing domestic, municipal or industrial water service, and having fifteen (15) or more service connections.

13. “Relate to,” “relating to” or “related to” means to constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.

14. “Return Flow Data,” used within the context of an agricultural use, means the volume of surface or subsurface water leaving an irrigated field after an irrigation application, *excluding* stormwater runoff. The term “Return Flow Data” in the context of a municipal or industrial use means the volume of water exiting a public water supply provider’s water distribution system, *excluding* stormwater runoff.

15. The “River Basin Planning Tool” means the tool developed by the Georgia Water Resources Management Institute at the Georgia Institute of Technology to model flows in Georgia’s river systems.

16. “Storage Data” means

17. the size, location, depth and use type of all water storage facilities located within the Chattahoochee and Flint River Basins.

18. “Storage Facility” means any earthen structure, impoundment, or dam created by human activity and designed to retain, store, impound or retine surface water or groundwater, including runoff, which exceeds fifteen (15) acre feet.

19. “Source Data” means identification of all current and projected water sources, along with diversion type (*e.g.*, well) for any municipal, industrial, or agricultural water use within the Chattahoochee and Flint River Basins.

20. “Source water supply” means a supply derived from surface water, groundwater, or hydrologically connected waters arising in or contributing to the flow of the Chattahoochee or Flint Rivers.

21. “Water” means surface water, groundwater, and hydrologically connected waters arising in or contributing to the flow of rivers within the Chattahoochee or Flint River Basin.

22. “Water Resource Assessments” has the meaning ascribed to it in the Georgia State Water Plan, and refers to evaluations of the capacity of water resources to meet demands for water supply and wastewater discharge without unreasonable impacts.

23. “Water Contingency Planning Task Force” means the task force convened by Governor Sonny Perdue, as well as any

24. “Water user” means all agricultural users and all public water supply providers.

25. “You” means the State of Georgia, its political subdivisions, all quasi-governmental agencies affiliated with the State of Georgia or performing non-delegable government duties for the State of Georgia, and any other persons, agents, consultants, representatives, or others acting on Georgia’s behalf, or others who have documentation within the possession, custody, or control of the State of Georgia (including, without limitation, the Upper Flint Regional Water Planning Council, Lower Flint-Ochlockonee Regional Water Planning Council, Middle Chattahoochee Regional Water Planning Council, Metropolitan North Georgia Water Planning District, and the Flint River Soil & Water Conservation District).

REQUESTS FOR PRODUCTION

38. The River Basin Planning Tool, and all documents relating to the River Basin Planning Tool.

39. All documents and data utilized by, or in connection with the use of, the River Basin Planning Tool.

40. All documents and data collected to be utilized by the River Basin Planning Tool.

41. All Water Resource Assessments and all documents relating to the River Basin Planning Tool.

42. All documents and data utilized to compile Water Resource Assessments.

43. All documents and data collected for purposes of compiling Water Resource Assessments.

44. All documents and data relating to the Georgia Environmental Protection Division's Scientific and Engineering Advisory Panel.

45. All documents relating to Georgia's Comprehensive State-wide Water Management Plan, including, without limitation, documents relating to surface water availability assessments, ground water availability assessments, resource assessments, forecasting, and regional water planning.

46. All documents created by, sent by, received by, or otherwise formerly in the possession, custody, or control of, former Georgia Environmental Protection Division Directors Harold F. Reheis, Carol A. Couch, and F. Allen Barnes.

47. All documents relating to email accounts utilized by former Georgia Environmental Protection Division Directors Harold F. Reheis, Carol A. Couch, and F. Allen Barnes.

48. All documents containing any high resolution (5-meter or higher resolution) topography collected within the past 10 years for any portion of the Chattahoochee or Flint River Basin, including any associated metadata and any documentation describing the collection and processing of the topographic dataset.

49. All documents related to flows in the Chattahoochee or Flint River Basins, including, but not limited to, any analyses of minimum flows or flow standards (whether developed to protect flora and fauna in Georgia or otherwise).

50. All documents created by or utilized by the Georgia Stream Survey Team of the Georgia Department of Natural Resources relating to flows in the Chattahoochee or Flint River Basins.

51. All documents related to the Water Contingency Planning Task Force.

52. All documents and data collected by the Water Contingency Planning Task Force.

53. All documents related to the effect of Army Corps operations on the Chattahoochee or Flint River Basins.

54. All documents related to interbasin transfers.

55. All documents related to salinity in Apalachicola Bay.

56. All documents referenced in, identified by, or relied upon in preparing any pleading or motion in this case.

57. All documents referenced in, or relied upon in preparing, responses to Florida's interrogatories.

58. All documents related to this case that were received from any third party, including all documents received in response to subpoenas.

Dated: March 13, 2015.

Respectfully submitted,

Allen Winsor
Solicitor General
Office of the Florida Attorney General
The Capital, PL-01
Tallahassee, FL 32399
T: 850-414-3300

Christopher M. Kise
James A. McKee
Adam C. Losey
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Tallahassee, FL 32301-7748
Tel.: 850-513-3367
Counsel for the State of Florida

ATTORNEYS AT LAW

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WRITER'S DIRECT LINE
407.244.7136
alosey@foley.com EMAIL

CLIENT/MATTER NUMBER
079094-0101

July 13, 2015

Dr. Arthur N. Dunning, Interim President
Albany State University
Billy Black Bldg. 383-B
Albany, GA 31705

Re: No. 142, Original
In the Supreme Court of the United States
State of Florida v. State of Georgia

Dear President Dunning:

Enclosed with this letter and hereby served upon you is a Subpoena for Production of Documents requesting that Albany State University provide counsel for the State of Florida with certain documents relevant to the above action pending in the United States Supreme Court.

Upon receipt, I ask that you contact Vanessa Silke to discuss your response to the enclosed subpoena and to resolve any questions you may have. Ms. Silke can be reached at (402) 904-4569 or at Vanessa@aqualawyers.com.

Thank you in advance for your anticipated compliance with the subpoena obligations.

Sincerely,

/s/ Adam C. Losey

Adam C. Losey

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MIAMI

MILWAUKEE
NEW YORK
ORLANDO
SACRAMENTO

SAN DIEGO
SAN FRANCISCO
SHANGHAI
SILICON VALLEY

TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

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

SUBPOENA FOR PRODUCTION OF DOCUMENTS

Pursuant to the Case Management Plan in the above-captioned matter, the pertinent portion of which is attached hereto as Exhibit A, and Rules 34 and 45 of the Federal Rules of Civil Procedure, as incorporated by the Case Management Plan, Albany State University (“you”) is hereby **ORDERED** to produce and make available electronically to the State of Florida and its attorneys, or provide by mutually agreed alternative means, the documents within your possession, custody, or control specified below. The documents may be made available electronically in native format or by permitting inspection or copying by counsel for the State of Florida at a mutually agreed upon time and place subject to reasonable notice.

For ease of production, all electronically stored information can be produced via a secure file transfer protocol site that will be provided free of charge or via electronic storage media that will be provided to you at no charge and upon your request. Any requests for assistance with the

transmittal of electronically stored documents, or coordination of the inspection of documents should be made to Vanessa Silke, counsel for the State of Florida, who may be reached by telephone at (402) 904-4569 and by email at vanessa@aqualawyers.com. The provisions of Rule 45(d) and (e) of the Federal Rules of Civil Procedure are set forth, as required by Rule 45(a)(1)(A)(iv) of the Federal Rules of Civil Procedure, in Exhibit B, attached hereto.

This Subpoena is issued pursuant to Fed. R. Civ. P. 45(a)(3)(B) by Adam C. Losey, counsel for the State of Florida, whose address appears below. A copy of the pertinent portions of Fed. R. Civ. P. 45 is attached as Exhibit B. **Please review the instructions and definitions carefully, as the chain of custody, method of forensic copying, collection, and production of electronically stored information requires your attention and supervision.**

INSTRUCTIONS

1. Pursuant to the Case Management Plan, as modified by Case Management Order No. 4, you shall have thirty (30) days from the date of service of this subpoena to serve objections and begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production.

2. Pursuant to the Case Management Plan, as modified by Case Management Order No. 4, if you anticipate that full production will require more than one hundred and twenty (120) days from service, you shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened on the issue.

3. Pursuant to the Case Management Plan, a copy of Section 11 of the Case Management Plan is attached hereto as Exhibit A. You may seek relief under the Case Management Plan for an unresolved discovery dispute by submitting a discovery dispute to the Special Master pursuant to the procedures outlined in Section 11.

4. Documents produced in response to this request should reflect in some manner the numbered request to which they are responsive.

5. Documents should be produced in their native format, and all electronically stored information is specifically requested in native format.

6. No request should be interpreted as an implicit or explicit restriction on any other request for production.

7. The singular number and masculine gender as used herein shall embrace, and be read and applied as, the plural or the feminine or the neutral, as the circumstances may make appropriate, and in order to make the request inclusive rather than exclusive.

8. Unless otherwise defined herein, each word or term shall have the meaning ascribed to it in Webster's Ninth New Collegiate Dictionary.

DEFINITIONS

To simplify presentation, the terms utilized herein have the following meanings:

1. “And” and “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all documents that might otherwise be construed to be outside its scope.

2. “Agricultural Consumption / Irrigation Data” means the location of use, the number of acres irrigated, the crop type (with corresponding irrigation depths and applicable irrigation schedule), the irrigation technology applied, monthly diversion, crop evapotranspiration, and return flow amounts.

3. “Agricultural water use” means the application of water to produce one or more commercially salable crops, or to support or produce livestock, and all related storage facilities. Agricultural water use does not include the application of water to support domestic gardens less than one (1) acre in size.

4. “Conservation Data” means the identification of each particular conservation measure in place, the date each such measure was implemented, the cost of each such measure and source of funding, the estimated volume of water savings associated with each such measure, and the extent to which that measure has been implemented throughout the relevant service area or geographic area.

5. “Cost Data” means the annual operation, maintenance and replacement costs associated with a manufacturing, industrial, or agricultural water supply system.

6. “Document” as used herein refers to all electronically stored information (as defined in the Federal Rules of Civil Procedure, and the commentary thereto) as well as all written or graphic matter, however produced or reproduced, of every kind and description,

whether produced internally or received from an outside source, including, without limitation, records, files, papers, books, letters, feasibility studies, objects, tangible things, correspondence, communications, email, telegrams, memoranda, inter-office communications, bulletins, reports, studies, surveys, contracts, licenses, permits, permit applications, agreements, ledgers, books of account, computer printouts and other computer materials, transcripts, analyses, proposals, suggestions, legal pleadings, legal documents, orders, consent orders, vouchers, working papers or drafts, statistical records, notebooks, calendars, appointment books, diaries, agendas, time sheets, logs, bids, job or transaction files, notations, notes, sound records of any type, phono-records or tape recordings or other data compilations from which information can be obtained, any transcriptions thereof, bulletins, circulars, press releases, notices, instructions, advertisements, work assignments, motion picture films, videotapes, research, or other articles and treatises, including all attachments and enclosures thereto.

7. “Groundwater Elevation Data” means the elevation of the ground surface and the depth to groundwater below the ground surface at any and all locations in your jurisdiction.

8. “Municipal and Industrial (M&I) Consumption Data” means the location of water use, the type of use, the source water supply, monthly use volumes, the means by which measurement of the use was taken, and return flow information.

9. “Person” or “persons” means any individual, partnership, corporation, company, association, government agency (whether federal, state, or local), or any other entity.

10. “Relate to,” “relating to” or “related to” means to constitute, refer to, form the basis of, reflect, mention, evidence, concern, pertain to, summarize, analyze, or to be in any way logically or factually associated with the matter discussed.

11. “Return Flow Data,” used within the context of an agricultural use, means the volume of surface or subsurface water leaving an irrigated field after an irrigation application, *excluding* stormwater runoff. The term “Return Flow Data” in the context of a municipal or industrial use means the volume of water exiting a public water supply provider’s water distribution system, *excluding* stormwater runoff.

12. “Storage Data” means the size, location, depth and use type of all water storage facilities located within your jurisdiction.

13. “Storage Facility” means any earthen structure, impoundment, or dam designed to retain, store, impound or retine surface water or groundwater, including runoff, which exceeds fifteen (15) acre feet.

14. “Source Data” means identification of all current and projected water sources, along with diversion type (*e.g.*, well) for any municipal, industrial, or agricultural water use within your jurisdiction.

15. “You” or “your” means Albany State University, all quasi-governmental agencies affiliated with Albany State University or performing non-delegable government duties for the Albany State University, and any other persons, agents, consultants, representatives, or others acting on Albany State University’s behalf, or others who have documentation within the possession, custody, or control of Albany State University. “Your jurisdiction” refers to the geographic and/or administrative reach of Albany State University.

REQUESTS FOR PRODUCTION

1. All Municipal and Industrial Consumption Data.
2. All Agricultural Consumption/Irrigation Data.
3. All Conservation Data.
4. All Cost Data.
5. All Groundwater Elevation Data.
6. All Return Flow Data (both Municipal/Industrial and Agricultural).
7. All Storage Data.
8. All Source Data.
9. All documents relating to water supply sources available to service existing water demands, and/or the costs associated with each such source.
10. All documents relating to water supply sources available to service projected future water demands, and/or the costs associated with each such source.
11. All documents relating to agricultural production statistics, including without limitation the number of irrigated and non-irrigated acres, crop types, farming methodology and irrigation technologies.
12. All documents relating to future agricultural production projections, including without limitation the projected number of irrigated and non-irrigated acres, projected crop types, and projected irrigation technologies.
13. All documents relating to the economic costs or benefits associated with water uses (*e.g.*, M&I, agricultural, recreational, etc.), including without limitation water rates and charges, any flat fees or hookup charges, and volumetric fees.
14. All permits issued authorizing manufacturing, industrial, or agricultural water use in your jurisdiction (ground and/or surface water diversions) along with documentation relating to the present status (*e.g.*, active/inactive) of each such permit.
15. All documents relating to actual ground and/or surface water diversions.
16. All applications, including pending applications, for water uses in your jurisdiction, and projections for any future applications regarding water use through 2040.
17. All documents relating to current population statistics and future projections, including without limitation associated water demand needs and future projections.

18. All documents relating to future projections of numbers of households by type (SFR and MFR), land uses, population per household and household income.

Dated: July 13, 2015

/s/ Adam Losey
Christopher M. Kise
Adam C. Losey
Foley & Lardner LLP
106 E. College Ave., Suite 900
Tallahassee, FL 32301-7748
Tel.: 850-513-3367

No. 142, Original

**In the
SUPREME COURT OF THE UNITED STATES**

STATE OF FLORIDA,

Plaintiff

v.

STATE OF GEORGIA,

Defendant

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT PLAN

December 3, 2014

EXHIBIT A

6.1.3 Requests For Documents/Inspections To Non-Parties

Each party may serve on non-parties requests for production of documents/requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have twenty (20) days from the date of service to serve objections and to begin producing documents, and thirty (30) days for full production. If either a party or the non-party anticipates that full production will require more than thirty (30) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall so inform the non-party of these deadlines.

6.1.4 Requests To Admit

A party may serve requests for admission on the other party. Each party served with requests for admission shall have ten (10) days from the date of service to serve objections and thirty (30) days from the date of service to respond.

6.2 Deposition Discovery

Unless they agree to proceed sooner, the parties may schedule depositions to begin on or after April 20, 2015. Depositions will be conducted in accordance with the guidelines attached hereto as Appendix C.

document(s) sought to be sealed and a redacted version of the document(s) sought to be sealed. The motion shall propose specific findings as to the need for sealing and the necessary duration of sealing. The motion shall include a statement as to whether there is agreement of the parties to the sealing.

10.2.2 Objection

Any objection to a motion to seal shall be filed with the Special Master within seven (7) days of filing of the motion to seal.

10.2.3 Order

In issuing an order to seal all or a portion of a document or documents as confidential, the Special Master may incorporate by reference the proposed findings in the motion. If the motion is denied, the unredacted version of the document(s) shall be made publicly available.

11. Resolution Of Discovery Disputes And Motions To Quash And Seek Protective Orders

Before bringing a discovery dispute to the attention of the Special Master, the parties shall confer in an attempt to resolve the dispute. It shall be the responsibility of the moving party to initiate the conference immediately following the identification of the dispute. Failure promptly to initiate the conference, failure to respond promptly to the initiation or failure to cooperate in dispute resolution may result in an adverse ruling regardless of the merits. If the conferences do not resolve the dispute, the procedure for resolving the discovery dispute shall be as follows:

11.1 Disputes Pertaining To Written Discovery

11.1.1 Failure To Timely Respond To Written Discovery Requests

In the event that timely responses to written interrogatories or document requests are not forthcoming, the proponent of the discovery should promptly file a motion to compel, which shall set forth the date the discovery was served and the due date for the responses, together with an averment of the default. No brief or copy of the interrogatories or document requests should accompany the motion. Upon receipt of such a motion, the Special Master, without waiting for a response, may enter an order directing the discovery be provided by a certain date and including such sanctions as he deems appropriate.

11.1.2 Disputes Regarding Discovery Objections Or Adequacy Of Responses

In the event of a discovery dispute – in contrast to a default – arising by reason of the respondent's objections or concerning the adequacy of responses to interrogatories, document requests, requests to inspect, or requests to admit, the parties shall promptly and in good faith exert every reasonable effort to resolve their differences. Where objections are made, the objecting party shall provide all other discovery that such party does not consider to be objectionable. As a last resort, any unresolved dispute shall be submitted to the Special Master as follows:

11.1.2.1 The party seeking resolution of a dispute shall send an email to the Special Master, attaching a copy of the pertinent

discovery request and response or objection. The email may also contain a short summary statement of each party's position, drafted or approved by that party, and not to exceed 75 words each. The Special Master will then schedule a telephone call with counsel.

11.1.2.2 If the dispute is not resolved telephonically, the parties shall make a written submission as instructed by the Special Master.

12. Deposition Disputes

12.1 General Procedures

Except as is expressly provided in paragraph 12.2 below, discovery disputes that arise during a deposition shall be resolved by submission to the Special Master, according to the same procedure set forth in section 11 governing disputes in regard to the adequacy of responses to written discovery.

12.2 Disputes That Require Immediate Resolution

Where a dispute arises at a deposition and a party believes an immediate resolution is necessary to avoid the re-scheduling of the deposition or a significant disruption of the discovery schedule, the Special Master shall be telephoned.

12.2.1 If the Special Master is available and a telephone conference is held, the ruling of the Special Master shall be recorded in the deposition. The deposition shall proceed according to such ruling or direction. If the ruling or direction is that a witness must answer a question or questions despite an objection based upon claim of privilege or work product, the

No. 142, Original

**In the
SUPREME COURT OF THE UNITED STATES**

STATE OF FLORIDA,

Plaintiff

v.

STATE OF GEORGIA,

Defendant

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT ORDER NO. 4

February 10, 2015

CASE MANAGEMENT ORDER NO. 4

For purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED THAT:


In response to multiple requests for an extension of time by third parties who have received subpoenas in the present proceeding and in light of the consent to an extension by both Florida and Georgia, the schedule established in the Case Management Plan ("CMP") and modified by Case Management Order No. 2 is hereby further modified as set forth herein.

Section 6.1.3 of the CMP is amended to read as follows:

Each party may serve on non-parties requests for production of documents / requests for inspection as provided in Fed. R. Civ. P. Rules 34(c) and 45. Such requests should be specific and designed to avoid imposing unnecessary burdens on non-parties. Non-parties shall have thirty (30) days from the date of service to serve objections and to begin producing documents, and one hundred and twenty (120) days from the date of service within which to complete full production. If either party or the non-party anticipates that full production will require more than one hundred and twenty (120) days from service, that party or non-party shall notify the Special Master within ten (10) days of service of the subpoena and a telephone conference will be convened to discuss the issue. Any subpoena shall inform the non-party of these deadlines.

Florida and Georgia should give notice to any subpoenaed third parties of the foregoing modification to the third parties' deadline for production of documents.

Dated: February 10, 2015



Ralph I. Lancaster
Special Master

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(B) inspection of premises at the premises to be inspected.

(d) PROTECTING A PERSON SUBJECT TO A SUBPOENA; ENFORCEMENT.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences

in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) DUTIES IN RESPONDING TO A SUBPOENA.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being

notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **TRANSFERRING A SUBPOENA-RELATED MOTION.** When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances. Then, if the attorney for a person subject to a subpoena is authorized to practice in the court where the motion was made, the attorney may file papers and appear on the motion as an officer of the issuing court. To enforce its order, the issuing court may transfer the order to the court where the motion was made.

(g) **CONTEMPT.** The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 16, 2013, eff. Dec. 1, 2013.)

Rule 46. Objecting to a Ruling or Order

A formal exception to a ruling or order is unnecessary. When the ruling or order is requested or made, a party need only state the action that it wants the court to take or objects to, along with the grounds for the request or objection. Failing to object does not prejudice a party who had no opportunity to do so when the ruling or order was made.

(As amended Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007.)

Rule 47. Selecting Jurors

(a) **EXAMINING JURORS.** The court may permit the parties or their attorneys to examine prospective jurors or may itself do so. If the court examines the jurors, it must permit the parties or their attorneys to make any further inquiry it considers proper, or must itself ask any of their additional questions it considers proper.

(b) **PEREMPTORY CHALLENGES.** The court must allow the number of peremptory challenges provided by 28 U.S.C. § 1870.

(c) **EXCUSING A JUROR.** During trial or deliberation, the court may excuse a juror for good cause.