

**LATHAM & WATKINS** LLP

October 26, 2015

**VIA EMAIL**

Ralph I. Lancaster Jr., Special Master  
*Florida v. Georgia*, No. 142, Original  
Supreme Court of the United States  
PIERCE ATWOOD LLP  
Merrill's Wharf  
254 Commercial Street  
Portland, ME 04101

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Re: *Florida v. Georgia*, No. 142, Original

Dear Special Master Lancaster:

Florida writes to respond both to the Court's request for additional information regarding Florida document subpoenas, and to the letter sent this morning by Georgia counsel.

Attached please find the following document requests and subpoenas:

1. ***Florida's document requests to Georgia, dated January 12, 2015 and March 13, 2015.*** Florida has only served two sets of document requests on Georgia.
2. ***Florida's most recent third party document subpoenas (July 13, 2015) to Georgia's Albany State University and to the Georgia Water Planning and Policy Center.*** Albany State University is represented in this case by Georgia's Attorney General's office. We expect but have not yet received substantial documentation from Albany State University, including regarding agricultural irrigation and state water planning efforts.<sup>1</sup> We also anticipate receiving significant additional material from other Georgia Universities.

In addition, Florida takes issue with the tone and content of the letter Georgia submitted this morning.

***First***, the timing of Florida's productions to Georgia was intended to provide the bulk of the most relevant material as early as practicable – specifically, email custodian files Georgia

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<sup>1</sup> We do not read the Special Master's request this morning to seek copies of more recent subpoenas duces tecum. We would be pleased to supply these subpoenas as well.

requested.<sup>2</sup> This effort required significant time not only because Georgia's 71 requests for production and email search terms were extremely broad, but also because Georgia was not inclined to narrow its requests substantially. Florida now has produced 2.95 million pages of documents, while Georgia has produced 2.1 million. Likewise, Florida Universities (who are represented by their own counsel) have produced 1.45 million pages while Georgia Universities have produced 350,000 pages. In short, Florida and Florida University document productions have greatly exceeded those from Georgia and Georgia Universities -- by more than 1.8 million pages. Florida still awaits potentially substantial productions from Georgia Universities.

*Second*, Florida's most recent production on Friday, October 24 (the apparent focus of the letter Georgia submitted this morning) was *only 2200 non-electronic documents*, a percentage of which are historical and publicly available materials such as regulatory submissions and decisions, documents from federal entities, and the like. Although a number of these documents are each hundreds of pages in length, they are not necessarily probative of any issue in this case. Florida produced these documents because Georgia's requests so require.

*Third*, at this stage, Florida is reviewing its productions to ensure it has not missed relevant sources of responsive material. Although this has been a very complex and labor intensive exercise, we believe the large majority of Florida and Florida University productions are complete, and that what remains to produce will be produced before the November 10, 2015 deadline. We are not certain if this is so for Georgia and Georgia Universities.

Until Georgia's recent correspondence, the parties were able to address and resolve most of these procedural issues amicably. We hope that practice can resume.

Respectfully submitted,



Philip J. Perry  
Of Latham & Watkins LLP  
*Counsel for Florida*

cc: Craig Primis

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<sup>2</sup> Florida made seven email productions between April and September 2015 containing more than 1 million pages of material. Florida is *still awaiting* email productions for certain key personnel at Georgia Universities, including Dr. Kistenmacher.