

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

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COMMANDER, MOBILE DISTRICT
U.S. ARMY CORPS OF ENGINEERS**

BEFORE

**COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION
SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES AND
COAST GUARD**

UNITED STATES SENATE

ON

***“Effects of Water Flows on Apalachicola Bay: Short and Long Term
Perspectives”***

AUGUST 13, 2013

Mr. Chairman and Members of the Committee:

I am Colonel Jon Chytka, Commander of the U.S. Army Corps of Engineers Mobile District and am honored to testify before you today on the status of the Corps' Water Management in the Apalachicola-Chattahoochee-Flint (ACF) River system. I assumed command of Mobile District on August 1, 2013 and am aware of the importance of this system to the Congress, the States, and the various stakeholders in the ACF basin.

The Corps' Mobile District is currently updating the system-wide Master Water Control Manual for the ACF River system through an open and deliberative process that includes preparation of an environmental impact statement (EIS) for the system, and solicitation and consideration of comments from the public and all interested stakeholders. The original system-wide Water Control Manual for the ACF was completed in 1958. Between 1990 and 2012, the Corps was involved in litigation that included challenges to the Corps' operation of federal reservoirs in the system, against a background of disagreement among the states of Alabama, Florida, and Georgia regarding the allocation of waters within the basin. During the pendency of that litigation, the states agreed to a Compact that was approved by Congress in 1997, and which contemplated the states agreeing to formulas for apportioning the surface waters of the basin. The Corps would have endeavored to update its operations, to the extent authorized by law, to implement such an agreement. After the states failed to reach agreement and the Compact expired, the Secretary of the Army directed the Corps to proceed with updating the federal water control manual for the ACF system. The litigation concluded in 2012 without resolving the states' underlying disputes regarding the allocation of waters among the states, and without specific direction from the courts as to how the Corps should operate the ACF system.

The purpose of revising the manual is to develop and implement updated, system-wide operational schemes for the federal projects in the basin in accordance with their authorized purposes, in light of current conditions and applicable law. Water control manuals assist federal water managers in operating individual and multiple, interdependent Corps reservoirs on the same river system consistent with applicable law. Generally, a water control manual includes technical, hydrologic, geographic, demographic, policy, and other information. The Corps uses these manuals to inform and guide its decisions on the management of the waters in our reservoirs, which typically involve different operating regimes for times of high water, low water, and normal conditions. The manuals contain water control plans for each of the reservoirs in the basin system and specify how the various reservoirs will be operated as a system. The manuals also contain drought plans and zones to assist federal water managers in knowing when to reduce or increase reservoir releases, and how to ensure the safety of dams during extreme conditions such as floods.

As part of the update process, the Corps is preparing an EIS for the federal system, and solicited and will consider comments from the public and interested stakeholders. These actions will result in updated plans and manuals for the system that are consistent with applicable law and take into account changes in basin hydrology and

demands from years of growth and development, new/rehabilitated structural features, legal requirements, and environmental issues.

The ACF basin (Figure 1) originates in northeast Georgia, crosses the Georgia-Alabama border into central Alabama, and follows the state line south until it terminates at Apalachicola Bay, Florida. The basin covers 50 counties in Georgia, 10 counties in Alabama, and 8 counties in Florida, extending a distance of approximately 385 miles; the basin drains 19,600 square miles.

There are five federal reservoirs and ten non-federal reservoirs in the ACF system. At the headwaters of the system north of Atlanta are Buford Dam and Lake Sidney Lanier. Moving downstream, the remaining federal reservoirs in the ACF system are West Point Lake Dam and West Point Lake; W.F. George Lock and Dam and W.F. George Lake; Lake George A. Andrews Lock and Dam and George A. Andrews Lake; and Jim Woodruff Lock and Dam and Lake Seminole, 108 miles upstream of Apalachicola Bay.

In June 2011 The United States Court of Appeals for the Eleventh Circuit held that municipal and industrial water supply for the city of Atlanta, Georgia, is an authorized purpose of the Lake Lanier project under the Rivers and Harbors Act of 1946, and remanded the matter to the Corps to determine the extent of its legal authority to accommodate the state of Georgia's request in 2000 for additional water supply withdrawals at and below Lake Lanier. The citation is: In Re: MDL-1824 Tri-State Water Rights Litigation, 644 F.3d 1160 (11th Cir. 2011). In response to that decision, the United States filed a legal opinion of the Chief Counsel of the Corps with the Eleventh Circuit on June 25, 2012, regarding the authority of the Corps to accommodate water supply withdrawals at and below Lake Sidney Lanier under the Rivers and Harbors Act of 1946, Public Law No. 84-841 (July 30, 1956), and the Water Supply Act of 1958.

On October 12, 2012, the Corps published a notice soliciting public comment on revising the scope of the EIS for the ACF water control manual update in light of these developments. The Corps published a revised, Final Updated Scoping Report in March 2013, providing notice that the Corps is evaluating additional water supply alternatives within the scope of the ACF water control manual update and EIS, including Georgia's updated request for water supply. The Corps has not yet decided on a proposed mode of ACF system operations. The proposed operations will be identified in the draft water control manuals and EIS. Those documents will be made available for public comment before any final decision is made on how the system should be operated.

The ACF Water Control Manual update and EIS are being prepared in accordance with Corps regulations, National Environmental Policy Act (NEPA), and all applicable law. As part of this effort, the Corps will consult with other federal agencies as required, including consultation with the U.S. Fish and Wildlife Service for consideration of impacts to threatened and endangered species. The draft water control manuals and EIS will be released for public review and comment in accordance with NEPA and requirements in Corps regulations. Similarly, the draft water control manuals and EIS

will undergo quality control/quality assurance reviews to include agency technical review and independent external peer review.

The Corps is currently in the technical analysis stage of the ACF manual update. We expect to reach the next major milestone in this process about two years from now, when we file a draft EIS with the Environmental Protection Agency (EPA) and release the draft water control manual and draft EIS for public review and comment.

In summary, the purpose of the ACF manual update is to improve the information and guidance that the Corps uses to operate the federal dams within the basin in accordance with applicable law. We operate these dams for the Congressionally authorized purposes as a system, and will continue to do so. The updates will take into account changes in basin hydrology and demands from years of growth and development, new/rehabilitated structural features, legal requirements, and environmental issues. Throughout this process, the Corps encourages the active participation of all stakeholders, and the Corps will carefully consider all comments received.

Mr. Chairman, Members of the Committee, this concludes my testimony. I look forward to continuing to work with the Committee on these very important issues and answering any questions you may have.

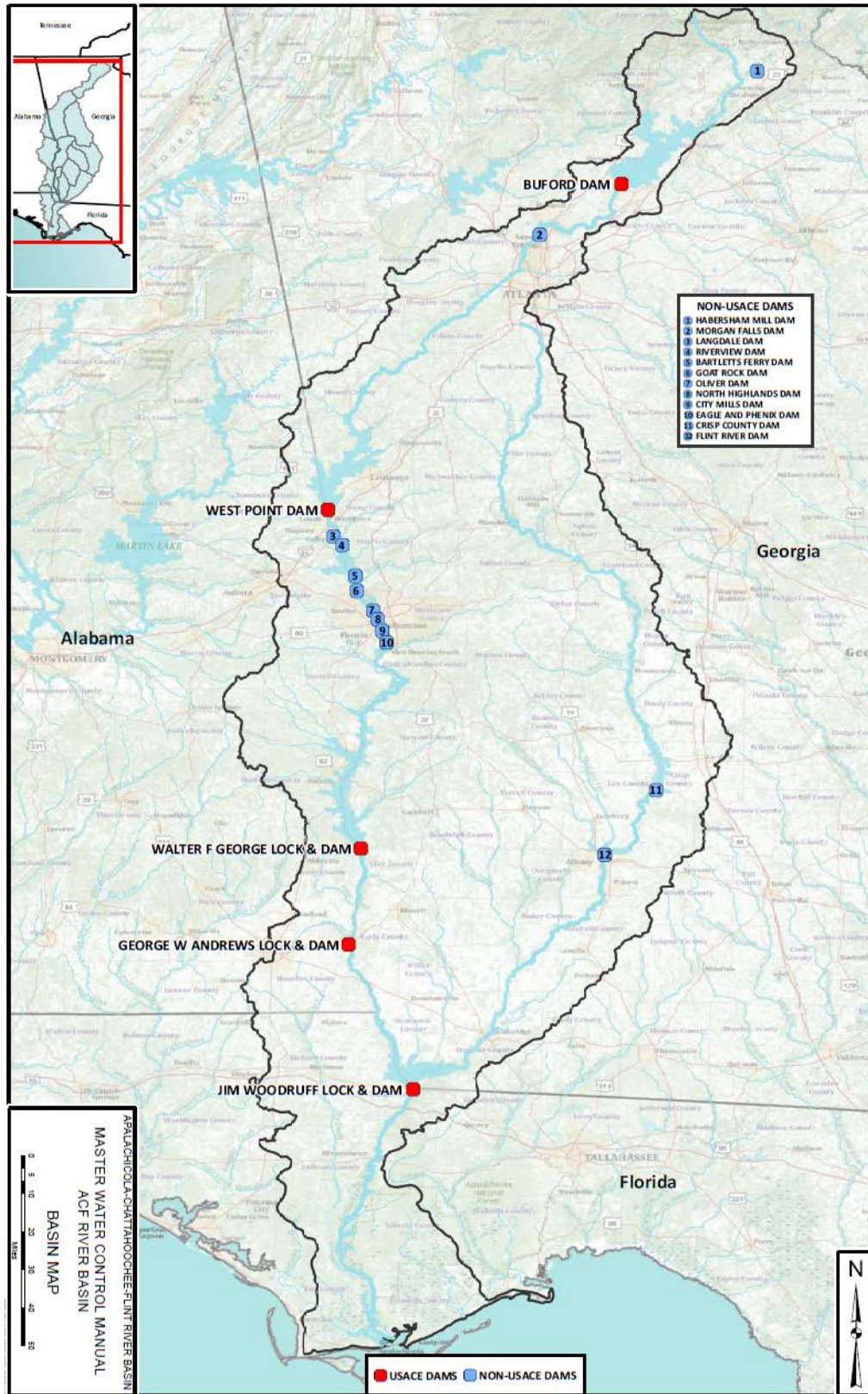


Figure 1. Apalachicola-Chattahoochee-Flint River Basin