
From: Primis, Craig S. <cprimis@kirkland.com>
Sent: Monday, October 12, 2015 6:11 PM
To: Philip.Perry@lw.com; Ralph Lancaster
Cc: Mary Clifford; FloridaWaterTeam@foley.com; #Georgia Water Team; supremectbriefs@usdoj.gov; michael.gray2@usdoj.gov; james.dubois@usdoj.gov; allen.winsor@myfloridalegal.com; John.Cooper@lw.com; Joshua D. Dunlap
Subject: RE: Discovery Dispute
Attachments: 2015.04.13 GA Tech Subpoena Response Objections.pdf; 2015-04-06 UGA Objections and Responses.pdf; Re Production of behalf of the University of Georgia (to Foley).pdf; RE Florida v. Georgia; GaTech and GWRI.pdf

Dear Special Master Lancaster:

Georgia believes that the attached documents are also relevant to resolving this dispute. The first two documents are objections that Georgia Tech and the University of Georgia served in response to Florida's document requests in April 2015. The second two documents are email exchanges memorializing meet-and-confer conversations between counsel for Florida and representatives of Georgia Tech and the University of Georgia .

Sincerely,
Craig Primis
Counsel for Georgia

From: Philip.Perry@lw.com [mailto:Philip.Perry@lw.com]
Sent: Monday, October 12, 2015 5:29 PM
To: Primis, Craig S.; rlancaster@pierceatwood.com
Cc: mclifford@PierceAtwood.com; FloridaWaterTeam@foley.com; #Georgia Water Team; supremectbriefs@usdoj.gov; michael.gray2@usdoj.gov; james.dubois@usdoj.gov; allen.winsor@myfloridalegal.com; John.Cooper@lw.com; jdunlap@PierceAtwood.com
Subject: Discovery Dispute

Dear Special Master Lancaster:

Pursuant to Section 11 of the Case Management Plan, Florida counsel writes to report that Florida and Georgia have reached an impasse regarding production of certain email correspondence on a specific topic for a particular individual. Dr. Kistenmacher is a professor/researcher at Georgia Institute of Technology (Georgia Tech), and was involved from 2012-15 in performing analyses of, among other things, the impact of Georgia consumptive uses of water (including for agricultural irrigation) on Apalachicola River flows. Dr. Kistenmacher was part of the Georgia Water Resources Institute (GWRI), a component of the Georgia Tech School of Civil and Environmental Engineering. See <http://www.gwri.gatech.edu/About>. Dr. Kistenmacher, Georgia Tech and GWRI are represented in this matter by the same counsel representing the State of Georgia.

In August of this year, Georgia counsel produced thousands of pages of GWRI's and Dr. Kistenmacher's hydrologic analyses of river flow impacts (both in draft and final form) with related memoranda and materials, and dozens of presentations on those impacts to a group known as ACF Stakeholders. On August 26, 2015, Florida issued a subpoena duces tecum for Dr. Kistenmacher's testimony, and for specific files related to this work. This subpoena duces tecum included the following specification: "To the extent not previously produced in response to the documents subpoenas issued in the above-captioned matter, all documents in your possession custody or control relating to the work you performed for the ACF Stakeholders" as well as certain other specific requests relating Dr. Kistenmacher's/GWRI's analysis of hydrologic impacts of Georgia consumption on the Apalachicola river. The term "documents" was defined to include "correspondence, communications, email."

In its written response to the Kistenmacher subpoena duces tecum, Georgia counsel objected to the production of Dr. Kistenmacher's email communications: "Collecting and producing emails, text, and other electronic messages would impose significant burdens on Dr. Kistenmacher. Furthermore, considering the nature of Florida's claims in this case, emails, texts, and other electronic messages are unlikely to contain a meaningful amount of relevant, material, and non-duplicative information in relation to the effort required to collect, review and produce them."

The Kistenmacher deposition began on September 30. During his testimony, Dr. Kistenmacher identified a specific email folder preserved on his computer which Florida believes will contain relevant discoverable material. The first day of the deposition proceeded, but the deposition was suspended at the conclusion of that day pending resolution of this issue. The parties have met and conferred, but have not reached a resolution of this issue.

** Georgia objects to the foregoing characterization of the issue and has requested that the following specific statements be added to this introduction:

(1) "Georgia believes this issue is part of a larger disagreement the parties are having about the production of UGA and Georgia Tech emails. Collecting, reviewing, and producing emails from multiple university professors (which Florida has indicated it might well seek) would impose significant and unjustified burdens on the universities;" and

(2) "Georgia disagrees with this description of the issue in dispute. Georgia believes that Florida has included this introduction to circumvent the Case Management Plan's limit of 75 words per side for arguing discovery disputes. Consistent with the CMP, Georgia has limited its position to 75 words."

Florida's 75 Word Statement:

Kistenmacher's contemporaneous emails should illuminate the context and content of his analytical work, refresh his recollection, distinguish drafts from final materials, explain hydrologic graphs, assist with authentication, and identify which data is being analyzed in presentations. Kistenmacher testified that he preserved these email communications (with

attachments) in a readily available folder on his computer. Florida never agreed to forgo relevant university email discovery; indeed, the University of Florida produced thousands of similar emails to Georgia.

Georgia's 75 Word Statement:

In April 2015, UGA and Georgia Tech objected to producing emails because the undue burden of collecting emails from professors and employees outweighed the marginal relevance of doing so. In meet-and-confers with both universities in March or April 2015, Florida's counsel agreed that email production was not required. Now, six months later, Florida has changed positions. It would be unduly burdensome and inequitable to force these universities to now collect and produce email.

Thank you. If convenient for the Special Master, both Florida and Georgia can be available on Thursday or Friday of this week to address these issues.

Philip J. Perry
Counsel for Florida

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Latham & Watkins LLP

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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

**GEORGIA INSTITUTE OF TECHNOLOGY'S RESPONSES AND OBJECTIONS TO
FLORIDA'S SUBPOENA FOR PRODUCTION OF DOCUMENTS**

Pursuant to the Case Management Plan in the above-captioned matter and Rules 34 and 45 of the Federal Rules of Civil Procedure, the Georgia Institute of Technology ("GIT"), by and through its attorneys, hereby submits its responses and objections to the subpoena for the production of documents issued by the State of Florida ("Florida").

GENERAL OBJECTIONS

1. This subpoena, which is issued to a state university, is overly broad insofar as Florida has failed to tailor its requests to any particular colleges, departments, programs, professors, papers, projects, or data sets, or to narrow the scope of its requests to the sort of

documents or data a university would be expected to have in its possession, custody, or control. This subpoena is therefore unduly burdensome and oppressive.

Given the overbreadth of Florida's subpoena, and Florida's failure to further narrow the scope of its requests, GIT will limit its initial review to custodians most likely to have documents and data responsive to Florida's requests. GIT will review the reasonably accessible electronic and paper files of those custodians and will, subject to the other objections contained herein, produce responsive documents in the manner in which they are maintained in the regular course of business and to the extent they can be located after a reasonable search.

2. GIT objects to each Request for Production to the extent it seeks emails, texts, or other electronic messages. Collecting and producing emails, texts, and other electronic messages from GIT employees would impose significant burdens on GIT. Furthermore, considering the nature of Florida's claims in this case, emails, texts, and other electronic messages are unlikely to contain a meaningful amount of relevant, material, and non-duplicative information in relation to the effort required to collect, review, and produce them. If any emails, texts, or other electronic messages are collected and produced by GIT in the course of collecting and producing other available materials that are responsive to the Requests, that shall not operate as a waiver of this objection.

3. GIT objects to the extent any Request for Production seeks pre-publication documents, drafts, or data that are works in progress or that have not yet been finalized and/or submitted for publication. The detriment to GIT professors of producing pre-publication drafts far outweighs any marginal benefit Florida would gain from obtaining non-final academic work product.

4. **Instruction No. 4 – Identification by Request.** GIT objects to Florida’s request to identify the specific request or requests to which each document is responsive. That request is unduly burdensome. GIT will produce documents as they are kept in the ordinary course of business.

5. **Definition No. 4 – “Conservation Data.”** GIT objects to the definition of “Conservation Data” to the extent it purports to require GIT to provide documents beyond those relating to *water* conservation in the Apalachicola-Chattahoochee-Flint River Basin (“ACF Basin”). GIT will therefore construe the term “conservation data” to refer only to water conservation in the ACF Basin.

6. **Definition No. 5 – “Cost Data.”** GIT objects to the definition of “Cost Data” as vague, ambiguous, and overly broad. As drafted, this definition purports to require the production of any and all cost or budget information associated with water use in the State of Georgia. Such a request is of doubtful relevance and is unduly burdensome.

7. **Definition No. 14 – “Source Data.”** GIT objects to the definition of “source data” and the undefined term “all projected water sources” as vague and overbroad.

8. **Definition No. 13 – “Storage Facility.”** GIT objects to the definition of “Storage Facility” because it could be interpreted to apply to non-manmade structures, impoundments, or dams. GIT construes the definition of “Storage Facility” to apply only to *manmade* “earthen structure[s], impoundment[s], or dam[s].”

OTHER CONDITIONS OF PRODUCTION

9. **Rolling Productions.** In light of the volume of documents and information sought by Florida’s subpoena, GIT will produce responsive documents on a rolling basis.

10. **Reasonable Search.** In searching for responsive documents, GIT will conduct a reasonable search of its records kept in the ordinary course of business, in the places where

information and documents responsive to the requests in this subpoena are most likely to be found. To the extent the requests ask for more, GIT objects on the grounds that the requests are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

11. ***Outside Geographic Scope.*** GIT objects to all requests in this subpoena that are not explicitly limited to the geographic territory at issue in this litigation—namely, the ACF Basin. GIT construes all requests as applying only to the ACF Basin.

12. ***Outside Temporal Scope.*** GIT objects to all requests in this subpoena to the extent they encompass a time period outside that which is relevant to this litigation. As Florida does not provide a date range in its Definitions or its requests, GIT will construe each request as encompassing the period from January 1, 1975, to the present.

13. ***Privileges.*** GIT objects to each request in this subpoena to the extent it seeks documents protected from disclosure by the attorney-client privilege, the work product doctrine, or any other available legal privileges or protections against discovery. Nothing contained in these responses and no information produced by GIT is intended to be, or shall be construed as, a waiver of any privilege or immunity from production.

14. ***Publicly Available Materials.*** GIT objects to each request in this subpoena to the extent it seeks documents or other materials that are publicly available. GIT personnel do have in their possession documents, books, reports, public domain models, reference and other materials that are publicly available and that could be considered responsive to Florida's subpoena. However, because those materials are equally accessible to Florida through other means, and because collecting and producing those materials would impose significant burdens, GIT will not undertake to collect and produce publicly available materials. If publicly available

materials are collected and produced by GIT in the course of collecting and producing non-publicly available materials that are responsive to the requests, that shall not operate as a waiver of this objection.

15. ***Possession or Control.*** GIT objects to any request in this subpoena that purports to require it to produce documents not within its possession, custody, or control, such as those maintained by private companies, local governments, or the State itself. GIT will produce documents as described in each response to the extent the documents sought are within GIT's possession, custody, or control.

16. ***Requests for "All Data."*** GIT does not interpret requests for "All Data" as seeking any and all documents that might possibly reflect the requested data, as that interpretation would be overly broad and unduly burdensome. Instead, GIT interprets requests for "All Data" as seeking documents sufficient to show requested data related to an identified topic.

17. ***Reasonable Interpretation.*** GIT has responded to the requests in this subpoena as it reasonably interprets and understands them. If Florida subsequently asserts an interpretation of any request that differs from GIT's understanding, GIT reserves the right to supplement its objections and/or responses herein.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 2:

All documents and data utilized by the River Basin Planning Tool.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 3:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 4:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

GIT objects to the Request for “all documents relating to the River Basin Planning Tool” as duplicative of Request for Production No. 1. Subject to and without waiving its General and

Specific Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 5:

All documents and data utilized to compile Water Resource Assessments.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 6:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 7:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 8:

All Municipal and Industrial Consumption Data

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 9:

All Agricultural Consumption/Irrigation Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 10:

All Conservation Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 11:

All Cost Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 12:

All Groundwater Elevation Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 13:

All Return Flow Data (both Municipal/Industrial and Agricultural).

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 14:

All Storage Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 15:

All Source Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 16:

All documents relating to water supply sources available to service existing water demands, and/or the costs associated with each such source.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 17:

All documents relating to water supply sources available to service projected future water demands, and/or the costs associated with each such source.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 18:

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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 19:

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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 20:

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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 21:

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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 22:

All documents relating to actual ground and/or surface water diversions.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 23:

All applications, including pending applications, for water uses in your jurisdiction, and projections for any future applications regarding water use through 2040.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 24:

All documents relating to current population statistics and future projections, including without limitation associated water demand needs and future projections.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 25:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 26:

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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Subject to and without waiving its General Objections, GIT will produce documents responsive to this Request, to the extent such documents exist.

Dated: April 13, 2015

/s/ Stefan Ritter

Stefan Ritter
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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

**RESPONSES AND OBJECTIONS TO FLORIDA'S SUBPOENA FOR PRODUCTION
OF DOCUMENTS TO THE UNIVERSITY OF GEORGIA**

Pursuant to the Case Management Plan in the above-captioned matter and Rules 34 and 45 of the Federal Rules of Civil Procedure, as incorporated by the Case Management Plan, the University of Georgia ("UGA"), by and through its attorneys, hereby submits its responses and objections to the subpoena for the production of documents issued by the State of Florida ("Florida").

GENERAL OBJECTIONS

1. This subpoena, which is issued to a state university, is overly broad insofar as Florida has failed to tailor its requests to any particular schools, departments, programs, professors, papers, projects, or data sets, or to narrow the scope of its requests to the sort of

documents or data a university would be expected to have in its possession, custody, or control. This subpoena is therefore unduly burdensome and oppressive.

Given the overbreadth of Florida's subpoena and Florida's failure to further narrow the scope of its requests, UGA will limit its initial review to custodians most likely to have documents and data responsive to Florida's requests. UGA will review the reasonably accessible electronic and paper files of those custodians and will, subject to the other objections contained herein, produce responsive documents in the manner in which they are maintained in the regular course of business and to the extent they can be located after a reasonable search.

2. UGA objects to each Request for Production to the extent it seeks emails, texts, or other electronic messages. Collecting and producing emails, texts, and other electronic messages from faculty and staff would be unduly burdensome. Furthermore, considering the nature of Florida's claims in this case, emails, texts, and other electronic messages are unlikely to contain a meaningful amount of relevant, material, and non-duplicative information in relation to the effort required to collect, review, and produce them. If any emails, texts, or other electronic messages are collected and produced by UGA in the course of collecting and producing other available materials that are responsive to the Requests, that shall not operate as a waiver of this objection.

3. UGA objects to the extent any Request for Production seeks pre-publication documents, drafts, or data that are works in progress or that have not yet been finalized or submitted for publication. The detriment to UGA professors of producing pre-publication drafts far outweighs any marginal benefit Florida would gain from obtaining non-final academic work product.

4. ***Instruction No. 4 – Identification by Request.*** UGA objects to Florida's request

to identify the specific request or requests to which each document is responsive. That request is unduly burdensome. UGA will produce documents as they are kept in the ordinary course of business.

5. **Definition No. 4 – “Conservation Data.”** UGA objects to the definition of “Conservation Data” to the extent it purports to require UGA to provide documents beyond those relating to *water* conservation in the Apalachicola-Chattahoochee-Flint River Basin (“ACF Basin”). UGA will therefore construe the term “conservation data” to refer only to water conservation in the ACF Basin.

6. **Definition No. 5 – “Cost Data.”** UGA objects to the definition of “Cost Data” as vague, ambiguous, and overly broad. As drafted, this definition purports to require the production of any and all cost or budget information associated with water use in the State of Georgia. Such a request is of doubtful relevance and is unduly burdensome.

7. **Definition No. 13 – “Storage Facility.”** UGA objects to the definition of “Storage Facility” because it could be interpreted to apply to non-manmade structures, impoundments, or dams. UGA construes the definition of “Storage Facility” to apply only to *manmade* “earthen structure[s], impoundment[s], or dam[s].”

8. **Definition No. 14 – “Source Data.”** UGA objects to the definition of “source data” and the undefined term “all projected water sources” as vague and overbroad.

9. **Definition No. 15 – “Your Jurisdiction.”** UGA objects to the definition of “your jurisdiction” as vague, ambiguous, and overbroad, and encompassing geographic territory not at issue in this litigation.

OTHER CONDITIONS OF PRODUCTION

10. ***Rolling Productions.*** In light of the volume of documents and information sought by Florida's subpoena, UGA will produce responsive documents on a rolling basis.

11. ***Reasonable Search.*** In searching for responsive documents, UGA will conduct a reasonable search of records kept in the ordinary course of business, in the places where information and documents responsive to the requests in this subpoena are most likely to be found. To the extent the requests ask for more, UGA objects on the grounds that the requests are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

12. ***Requests for "All Data."*** UGA does not interpret requests for "All Data" as seeking any and all documents that might possibly reflect the requested data, as that interpretation would be overly broad and unduly burdensome. Instead, UGA interprets requests for "All Data" as seeking documents sufficient to show requested data related to an identified topic.

13. ***Reasonable Interpretation.*** UGA has responded to the requests in this subpoena as it reasonably interprets and understands them. If Florida subsequently asserts an interpretation of any request that differs from UGA's understanding, UGA reserves the right to supplement its objections and/or responses herein.

RESPONSES

Incorporating each of its above General Objections and Conditions ("General Objections") as if fully set forth with respect to each Response, and further subject to any Specific Objections made in connection with each of the below-numbered Responses, UGA responds to Florida's subpoena as follows:

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All Municipal and Industrial Consumption Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 2:

All Agricultural Consumption/Irrigation Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 3:

All Conservation Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 4:

All Cost Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 5:

All Groundwater Elevation Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 6:

All Return Flow Data (both Municipal/Industrial and Agricultural).

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 7:

All Storage Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 8:

All Source Data.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 9:

All documents relating to water supply sources available to service existing water demands, and/or the costs associated with each such source.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 10:

All documents relating to water supply sources available to service projected future water demands, and/or the costs associated with each such source.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request relating to the number of irrigated and non-irrigated acres, crop types, farming methodology and irrigation technologies, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 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.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Subject to and without waiving its General Objections, UGA does not presently believe it has documents responsive to this Request but will produce any documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 15:

All documents relating to actual ground and/or surface water diversions.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 16:

All applications, including pending applications, for water uses in your jurisdiction, and projections for any future applications regarding water use through 2040.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16: Subject to and without

waiving its General Objections, UGA does not presently believe it has documents responsive to

this Request but will produce any documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 17:

All documents relating to current population statistics and future projections, including without limitation associated water demand needs and future projections.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

REQUEST FOR PRODUCTION NO. 18:

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

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Subject to and without waiving its General Objections, UGA will produce documents responsive to this Request, to the extent such documents exist.

Dated: April 6, 2015

/s/ Stefan Ritter
Stefan Ritter
Senior Assistant Attorney General
Office of the Attorney General
40 Capitol Square, SW
Atlanta, GA 30334
Tel.: (404) 656-7298
Fax: (404) 657-8733
sritter@law.ga.gov

From: Vanessa Silke [<mailto:Vanessa@aqualawyers.com>]
Sent: Monday, April 06, 2015 1:12 PM
To: Stefan Ritter
Subject: FW: Production on behalf of the University of Georgia (to Foley)

Hello Stefan

Thank you for your time today. As we discussed, I have been in contact with Beth Bailey, Michael Raeber, and Natalie Cox (³UGA Counsel²) regarding the scope of the subpoena, as well as provided a link to an FTP site maintained by co-counsel for the State of Florida. (See below.) I understood from UGA Counsel that responsive electronic documents would be uploaded to the ftp site, and that I would be contacted should file types/sizes require another method of production. Additional calls to discuss relevant custodians, and the possibility of an on-site inspection by counsel for Florida were also contemplated. Please reply with your understanding of UGA¹'s delivery of responsive documents, as well as the preferred point of contact for communications by me with UGA representatives.

Regards,

Vanessa



Vanessa Silke
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Dear Vanessa,

Thank you for your email on Thursday (3/19) as a follow up to our Tuesday (3/17) phone conference.

We have confirmed that the Stripling Irrigation Research Park (Stripling) it is a unit housed under the University of Georgia¹'s College of Agricultural and Environmental Sciences. We do not intend to duplicate production of documents under the UGA subpoena and the separate subpoena to Stripling. We have also confirmed that the Georgia Water Resources Institute is not under the control of the University of Georgia.

We also discussed several aspects of the subpoena, which you acknowledged is overbroad in several respects.

In your email, you state that Florida is ³primarily interested in documents related to water use in the ACF Basin.² On our call, you confirmed that UGA is not expected to produce documents that do not relate to water use in the ACF basin. Likewise, you confirmed that this subpoena is directed to UGA water research studies and services provided to other entities and does not cover UGA¹'s own water usage.

We agreed that the documents to be produced include research, papers, studies, and reports, but not drafts, discussions, or emails (unless such email was the sole source for the research, study, or report). Your email confirms that you do not expect UGA to perform a term search for electronic documents.

We agree with your email that UGA is unlikely to have documents responsive to Requests 14 and 16, as UGA does not issue or apply for water use permits.

You confirmed that documents and materials already possessed by the State of Florida need not be produced by Georgia in response to this request.

You requested that we notify you about any hard copy records prior to scanning and uploading.

Thank you for clarifying these points. We likely will have other questions and requests for clarification as we continue to identify sources of potentially responsive documents.

Beth

S. Elizabeth Bailey
Senior Associate Director for Legal Affairs
University of Georgia
Lustrat House
Athens, Georgia 30602
(706) 542-0006
Fax (706) 542-3248
sebailey@uga.edu

From: Vanessa Silke <Vanessa@aqualawyers.com>
Date: Thursday, March 19, 2015 at 11:29 PM
To: Beth Bailey <sebailey@uga.edu>
Subject: RE: Telephone Conference - Request for Documents FL/GA Litigation

Hello Beth -

We want to thank you, Mike, and Natalie for your time this week. I want to confirm in this email our discussion of the responses to the subpoenas served on the University of Georgia (UGA) and Stripling Irrigation Research Park (Stripling). We understand from our conversation with you that you will verify whether UGA controls Stripling, as the State of Florida is not interested in the production of documents by Stripling that only duplicate the production of documents from UGA. Attached, please find a copy of the subpoena served on Stripling. Please reply to this email with confirmation or clarification on UGA's relationship to Stripling.

Also we discussed on the call, Florida is primarily interested in documents related to water use in the ACF basin. Examples of documents include habitat studies, hydrology models, land use and population projections, climate studies, and models, reports, and data collections, as well as a limited scope of emails. As discussed, please contact me as you identify custodians of responsive documents and we will work with you to tailor the scope of documents to produce. Also, we understand that UGA is unlikely to control documents responsive to Requests 14 and 16, as UGA does not issue or apply for water use permits.

As for UGA's production of documents, below is the link to the secure FTP site managed by co-counsel for the State of Florida. Please log in, create an account for UGA, and upload the electronic documents in native format. After you have created an account and uploaded documents, please send those documents through your account on the ftp site's ³Send File² tab to

Vanessa@aqualawyers.com, as well as DMetter@foley.com and ALosey@foley.com. As long as the documents load properly and are viewable on our end, we will not need hard copies. For file types that cannot be uploaded to the ftp site (models, for example), please provide an executable version on a CD or hard drive.

<https://securefta.foley.com>

Thank you, and we look forward to your continued cooperation.

-Vanessa Silke

Attorney - Blankenau Wilmoth Jarecke, LLP

402-475-7080

Sent from my Samsung Galaxy Tab® S

----- Original message -----

From: S ELIZABETH Bailey <sebailey@uga.edu>

Date: 03/10/2015 3:58 PM (GMT-06:00)

To: Vanessa Silke <Vanessa@aqualawyers.com>

Subject: Telephone Conference - Request for Documents FL/GA Litigation

Vanessa:

I propose that we have a telephone conference on Tuesday, March 17, 2015 at 10 am (Eastern Time). We will give you a call. I anticipate that there will be several lawyers from this office participating as different lawyers will be working with different units on campus to comply with the request. Please confirm this time works for you. Thanks.

Beth

S. Elizabeth Bailey
Senior Associate Director for Legal Affairs
University of Georgia
Lustrat House
Athens, Georgia 30602
(706) 542-0006
Fax (706) 542-3248
sebailey@uga.edu

From: Stefan Ritter [<mailto:sritter@law.ga.gov>]

Sent: Monday, April 06, 2015 11:48 AM

To: 'CKise@foley.com'; 'ALosey@foley.com'

Cc: 'FloridaWaterTeam@foley.com'; 'allen.winsor@myfloridalegal.com'; 'cprimis@kirkland.com'; 'sarah.warren@kirkland.com'

Subject: Production on behalf of the University of Georgia (to Foley)

Attached please find the University of Georgia¹s Responses & Objections to Florida¹s Subpoena for Production of Documents, as well as a letter regarding UGA¹s first production.

STEFAN RITTER

Senior Assistant Attorney General

(404) 656-7298

40 Capitol Square, SW
Atlanta, GA 30334

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Subject: RE: Florida v. Georgia; GaTech and GWRI subpoenas

From: Vanessa Silke [<mailto:Vanessa@aqualawyers.com>]
Sent: Thursday, April 16, 2015 10:09 AM
To: Kate Wasch
Cc: Pamela P Rary; Stefan Ritter
Subject: RE: Florida v. Georgia; GaTech and GWRI subpoenas

Hello Kate, Sissy, and Stefan –

I will be in the office next week on Tuesday, April 21, and Friday, April 24. I am also available for a call on Monday, April 27, and Tuesday, April 28. Please let me know which day/time frames works best for you.

Thank you.

-Vanessa



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From: Kate Wasch [<mailto:kate.wasch@legal.gatech.edu>]
Sent: Tuesday, April 07, 2015 4:56 PM
To: Vanessa Silke
Cc: Pamela P Rary
Subject: Re: Florida v. Georgia; GaTech and GWRI subpoenas

Dear Vanessa:

Thank you for your email confirmation of our discussion about Georgia Tech's response to the subpoena received on March 13, 2015. We are providing this confirmation that the Georgia Water Resources Institute is part of the National Institutes of Water Resources authorized by Section 104 of the Water Resources Research Act. Georgia Water Resources Institute (GWRI) is a center within the School of Civil and Environmental Engineering. The purpose of the center is to provide interdisciplinary research and education relating to water resources. Because GWRI is part of Georgia Tech and documents produced by Georgia Tech will include GWRI documents, GWRI will not respond separately to the subpoena. We therefore request that Florida withdraw its subpoena to GWRI.

Further memorializing our discussion, we discussed Georgia Tech's response to the subpoena in light of the overbreadth of its scope (i.e., you acknowledged that Georgia Tech may not have many of the documents requested). We are writing to confirm that Georgia Tech will limit its initial review to data and documents in

the possession of the custodians most likely to have documents and data responsive to Florida's requests. GIT will review the reasonably accessible electronic and paper files of those custodians and will, subject to any objections, produce responsive documents in the manner in which they are maintained in the regular course of business and to the extent they can be located after a reasonable search. Further, the scope of the subpoena is limited to documents and data related to the ACF Basin. In addition, as we discussed, GIT will not search or produce emails from GIT's 8,000 employees.

Given the size of Georgia Tech's faculty and the broad scope of Florida's subpoena, Georgia Tech would appreciate meeting and conferring with Florida to further refine Florida's requests. Please let me know a time that works for Florida.

Thanks, and I look forward to hearing from you soon.

Kate Wasch
Managing Attorney
Office of Legal Affairs
Georgia Institute of Technology
Atlanta, GA 30332-0495
Phone: 404-894-4812

For Express Mail & deliveries:
760 Spring Street, Suite 324
Atlanta, Georgia 30308

Website: legal.gatech.edu

Please note that most communications to or from Georgia Tech employees are public records and available to the public and the media upon request under Georgia's broad open records law. Therefore, this e-mail communication and any response to it may be subject to public disclosure.

From: "Vanessa Silke" <Vanessa@aqualawyers.com>
To: "Pamela P Rary" <pamela.rary@legal.gatech.edu>, "Kathleen A' Wasch" <kate.wasch@legal.gatech.edu>
Sent: Wednesday, March 18, 2015 11:30:47 PM
Subject: Florida v. Georgia; GaTech and GWRI subpoenas

Hello Sissy and Kate -

Thank you for your time on Tuesday. I want to confirm in this email our discussion of the responses to the subpoenas served on Georgia Institute of Technology (GaTech) and Georgia Water Resources Institute (GWRI). We understand from our conversation with you that GaTech controls GWRI. The State of Florida is not interested in the production of documents by GWRI that only duplicate the production of documents from GaTech. For that reason, unless GWRI controls documents that are responsive to the subpoena and are not within the scope of documents GaTech will produce, we understand GWRI will not respond separately to the subpoena. Please reply to this email with confirmation or clarification on this

point.

Also we discussed on the call, Florida is primarily interested in documents related to water use in the ACF basin. Examples of documents include the river basin planning tool, land use and population projections, climate studies, and models, reports, and data collections, as well as a limited scope of emails. We understand much of GaTech's production of documents will come from GWRI. To that end, and in an effort to winnow the universe of documents to produce, please identify the GWRI employees, and any other custodians, from whom you intend to obtain responsive documents. We will continue to confer with you on the scope of documents that are necessary for GaTech to produce.

Below is the link to the secure FTP site managed by co-counsel for the State of Florida. Please log in, create an account for GaTech, and upload the electronic documents in native format. After you have created an account and uploaded documents, please send those documents through your account on the ftp site's "Send File" tab to Vanessa@aqualawyers.com, as well as DMetter@foley.com and ALosey@foley.com. As long as the documents load properly and are viewable on our end, we will not need hard copies. For file types that cannot be uploaded to the ftp site (models, for example), please provide an executable version on a CD or hard drive.

<https://securefta.foley.com>

Thank you, and we look forward to your continued cooperation.

-Vanessa Silke
Attorney - Blankenau Wilmoth Jarecke, LLP
402-475-7080

Sent from my Samsung Galaxy Tab® S

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