

Allatoona may be next battle in water war

By Dan Chapman

The next skirmish in metro Atlanta's so far losing battle for drinking water will begin in a federal courtroom in Birmingham on Monday.

Last month a Minnesota judge ruled that Atlanta has no right to drink from Lake Lanier, a potentially crushing blow for future growth and development in North Georgia.

But what happens in Birmingham could prove doubly dire for Atlanta. U.S. District Court Judge Karon Bowdre is weighing whether North Georgia illegally taps Lake Allatoona, too. Her ruling is expected next year.

The two reservoirs provide drinking water for nearly 4.5 million metro Atlantans. If, as many water warriors expect, Bowdre rules against Georgia, then Atlanta's future rests largely in Alabama's hands.

"Both Alabama and Florida are in the catbird seat," said Mark Crisp, a water expert in Atlanta involved in the water wars since 1989. "I wish I had in my business the negotiating strength that Alabama and Florida have. They really do control the dice. [Georgia Gov. Sonny] Perdue has to recognize that he's got to give up something."

Perdue hopes to meet soon with his Alabama and Florida counterparts to negotiate a deal. The three states share the rivers that flow through the Apalachicola-Chattahoochee-Flint (ACF) basin, and Georgia and Alabama also share the waters of the Alabama-Coosa-Tallapoosa (ACT) river basin.

Part of Perdue's strategy involves linking negotiations on water flows and storage in both basins. While loath to discuss it publicly, Perdue's negotiators may have to horse-trade water from the Coosa River, for example, to keep Atlanta and other Chattahoochee users satisfied. It's a risky tactic, though, and sure to anger Georgia communities that depend upon water that gets bargained away.

"Alabama is using the ACF" — the Chattahoochee — "for leverage. Their primary interest is the ACT," Perdue said in a recent interview. "In martial arts, as with water negotiations, you use whatever hurts."

Battle for the basins

U.S. District Court Judge Paul Magnuson ruled July 17 that the region's withdrawals from Lake Lanier are illegal. Alabama and Florida had sued the U.S. Army Corps of Engineers, which controls the lake, over how it disperses water. Georgia is a co-defendant.

Magnuson gave Georgia, Alabama and Florida three years to resolve the issue; if they fail, the judge said, he will sharply curtail Georgia's withdrawals.

The crux of Magnuson's decision — that drinking water was never a congressionally authorized use for Lanier — also forms the basis of Alabama's lawsuit over Lake Allatoona. Judge Bowdre meets with the states' lawyers Monday to set a timetable to hear the case.

Allatoona, built and operated by the corps, touches portions of Cobb, Bartow and Cherokee counties. Cobb County pulls about half of its water from Allatoona, the other half from the Chattahoochee. Its water authority serves 800,000 customers, including some in Cherokee, Douglas, Fulton and Paulding counties.

The authority has a contract with the corps to withdraw an average of 34.5 million gallons daily from Allatoona. The authority can take up to 58 million gallons a day.

Alabama says Cobb, on an annualized daily average, pulls too much water from Allatoona. In its much-amended 1990 lawsuit, Alabama alleges "unlawful and unauthorized mismanagement by the corps" of Allatoona.

"Rather than operate and manage those reservoirs to meet their congressionally authorized project purposes, the corps has used them to satisfy upstream demands for water supply, drought protection, and recreation," the lawsuit reads.

The lawsuit further takes aim at the Hickory Log Creek Reservoir built and run by Cobb's water authority and the city of Canton. The reservoir is fed by the creek and the Etowah with water that otherwise would flow into Lake Allatoona and on to Alabama.

Glenn Page, who runs Cobb's water authority, agrees with Perdue that Allatoona is more critical to Alabama than Lanier. The Chattahoochee, after all, runs down Alabama's eastern edge; the Coosa, Tallapoosa and Alabama run straight through its heart.

Page remains unruffled despite sitting in the cross hairs of Alabama's double-barreled attack on Georgia's water supply.

"The state of Alabama has always been more interested in the ACT than the ACF because they have a lot more at stake with the ACT," he said.

Alabama's supply

Alabama is blessed with an abundance of water, with 77,428 miles of rivers and streams and 43 reservoirs and lakes, according to the Alabama Department of Environmental Management. And the ACT basin, which stretches from northwest Georgia almost to the Gulf of Mexico, is Alabama's most crucial waterway.

Gadsden, Anniston and Montgomery sit in the basin. Alabama Power Co. owns and operates numerous reservoirs, dams and hydroelectric plants across it.

“Nobody in Alabama thinks we will run out of water anytime soon,” said Cindy Lowry, executive director of the Alabama Rivers Alliance in Birmingham. “But the water wars and the drought of 2007 have opened eyes to the fact that our water resources, as abundant as they are, aren’t infinite.”

Alabama, like Georgia, was slammed by the drought, which underscored how critical the ACT basin is to Alabama. Alabama responded with an updated lawsuit seeking to prevent the corps from stockpiling water upstream and from transferring more water from Allatoona to metro Atlanta.

Yet Georgia officials frequently cite corps statistics that show Alabama as the source of 77 percent of the water within the ACT basin. Georgia accounts for only 23 percent. Since Alabama controls most of the water, Georgia argues, it has more than enough to tide itself over during droughts.

Alabama, though, wants a guarantee.

Seeking guarantees

If Perdue gets Alabama Gov. Bob Riley and Gov. Charlie Crist of Florida to the negotiating table, guaranteed flows will again top the agenda — for both the ACT and the ACF basins. Alabama Power, for example, wants a guaranteed flow of Chattahoochee River water for its nuclear power plant near Dothan. Perdue said he has repeatedly assured Riley that Farley will always have enough water “even in times of extreme drought.”

Crisp, managing consultant with C.H. Guernsey & Co., who advises smaller utilities on the water war, said Alabama uses Farley as “leverage” to get a better deal on the Coosa and Tallapoosa rivers.

“They don’t have to have the Chattahoochee,” he said. “If they could get a satisfactory resolution on the ACT, I don’t think they’d completely bail out of the ACF, but it would lose a lot of its luster.”

Todd Stacy, the spokesman for Riley, said both basins are important to Alabama.

“We’re interested in protecting all the water that Alabama depends on,” he said. “We need an agreement that actually sets up a system of shared use for all sides.”

George Sherk, water-law expert at Colorado School of Mines, said it’s “wishful thinking” on Georgia’s part to believe it can resolve the water war by simply appeasing Alabama’s desire for the Coosa and Tallapoosa.

“Realistically, even if Alabama said, ‘To hell with it. Georgia takes the ACF and we’ll take the ACT,’ well you’ve still got the big dog Florida downstream and there’s no way in hell Florida is backing off,” Sherk said.