

I would like to thank the U.S. Committee on Agriculture, Nutrition and Forestry for conducting this field hearing today on this very important issue. I would also like to thank Senator Saxby Chambliss and Senator Johnny Isakson, as well as Congressmen Westmoreland, Gingrey and Price for their leadership on this issue.

Water is a life resource. It is a fundamental part of our lives. It is easy to forget how completely we depend on it. Human survival is dependent on water - water has been ranked by experts as second only to oxygen as essential for life. It is not only essential for drinking but critical to our economy, including our number one industry in Georgia - agriculture.

We have worked hard in Georgia to ensure that our uses of this precious resource are reasonable. We are currently in the process of putting together a statewide water plan. Just here in this region we have opened an EPD office in Tifton to improve local/state coordination on water use. EPD has just implemented the use of new geographic information system (GIS) technology into its process for evaluating applications for agricultural irrigation permits. The Soil and Water Conservation Authority is helping to put a water meter on every pump in the Flint river basin so that we will have the best quality data on agricultural water use for managing our water supply. Georgia is doing its part to responsibly utilize and manage our precious water resources.

And so you can understand our exasperation when the United States Army Corps of Engineers' (Corps) fails to do its part to properly manage this critical resource in the ACT and ACF river basins. Waters arising and flowing in Georgia are waters of the State of Georgia, and the federal reservoirs constructed on them should be operated by the Corps to meet vital needs of Georgia's citizens, including water supply, waste assimilation, recreation and navigation, and to support the biological needs of a wide variety of species.

In March of this year, the Corps announced a new reservoir management plan for the ACF Basin reservoirs called the Interim Operations Plan (the IOP). The IOP was intended to support the needs of the endangered Gulf sturgeon during its spring spawn and the needs of two species of protected mussels in the summer. While the intention of the IOP may be good, the State of Georgia is concerned that it mandates the release of far more water than is necessary for the protection of these species and depletes the water storage upon which people and wildlife - including the protected species at issue - depend. Unfortunately, under former leadership, the Corps has largely dismissed Georgia's concerns.

\* On May 5, 2006, Dr. Carol Couch, Director of Georgia's Environmental Protection Division, wrote a letter to the Corps enclosing hydrologic data showing that the Corps' continued operations could draw down the federal reservoirs in the ACF Basin to their lowest level in 50 years and could effectively empty them.

\* On June 1, 2006, Dr. Couch sent a letter to the Corps and the U.S. Fish and Wildlife Service (FWS) requesting specific changes to the IOP.

\* On June 2, 2006, I wrote Secretary of the Army Frances Harvey sharing Georgia's concern that "unless the Corps changes its operating protocols, the reservoirs and lakes in the system

will be drawn down to their lowest level in recorded history."

\* Also on June 2, 2006, Dr. Couch sent a letter to Colonel Peter Taylor and FWS with an attached memorandum providing additional results of the simulation of the IOP using data and information received from the Corps.

\* On June 6, 2006, I personally met with former Commander Michael Walsh and Colonel Taylor again expressing these concerns.

\* By June 9, 2006, the State had received no material responses from the Corps in response to its letters. Thus, on June 9, 2006, Dr. Couch wrote the Corps another letter demanding specific revisions to the IOP.

\* On June 12, 2006, the Corps responded by letter to Dr. Couch's June 1 and June 2 letters. The Corps challenged what it believed to be certain of the assumptions underlying Georgia's simulations of the IOP, but did not provide data to allow Georgia to assess the validity of the Corps' assertions or to fully evaluate the discrepancies between the Corps' and Georgia's models.

\* The Corps repeatedly put off responding to our June 9, 2006 letter that demanded changes to the IOP. After several requests for more time, the Corps finally stated that it would not respond to the June 9, 2006 letter because of unidentified "concerns raised by the other parties to the litigation." In fact, the Corps did not respond to Dr. Couch's June 9 letter until June 21, 2006.

In the midst of all of this, the Corps admitted to releasing more than 22 billion gallons of water from Lake Lanier by mistake - at a time when the region was approaching what is traditionally the driest time of the year. By this mistake, they essentially created a "man made" drought on top of a natural drought.

The 22.5 billion gallons of water that the Corps mistakenly released corresponds to 6.3% of Lake Lanier's conservation, or 22.5% of West Point's, or 28.2% of Walter F. George's (Lake Eufala) storage conservation.

The unfortunate actions by the Corps, and the repeated lack of response to our concerns, left Georgia with no alternative but to take legal action to protect our water resources. As you are aware, the State of Georgia filed a complaint in the Northern District of Georgia to stop the Corps' continued operation according to the Interim Operations Plan. This case is pending.

Litigation is never how I choose to deal with issues. As I explained earlier, we tried to impress our concerns upon the Corps. However, the Corps' leadership was largely non-responsive. The threat to the State of Georgia months later has not subsided.

The IOP that the Corps continues to operate under does not allow the lakes to refill and recover the lost stored water. Common sense tells us that you cannot manage a system of reservoirs if you never store any water. The Corps' Interim Operations Plan was adopted without any prior notice, without any public participation, without analysis of its impact on authorized purposes

for which the federal reservoirs were constructed, without consideration of its impact on the water supply security for the millions of people who rely on the Chattahoochee reservoir system for water supply, without consideration of its long-term sustainability or its long-term impact on federally protected species, and without consideration of alternatives. The result is an unbalanced plan that poses a severe risk of substantial harm to the State of Georgia.

In fact, the Interim Operations Plan is essentially a water control plan. A water control plan that was adopted without any public comment or notice and taking only one factor into consideration - endangered species. Georgia has long advocated that the Corps should update its master control plan for both the ACF and ACT basins - which it has not done in over 50 years. As a result, the Corps is operating these complex systems without reliable and predictable operating rules tailored to current demands and conditions within the Basins. Indeed, the Corps' own regulations provide that water control plans should be updated periodically in light of changing demands and other conditions. And there is no question that over the last 50 years the ACF and ACT Basins in Georgia have changed dramatically.

The Federal government itself recognized the need for current plans. The Federal Emergency Management Agency (FEMA) is investing millions of dollars in updating floodplain maps. This is a response to growth in Georgia and Alabama that has altered the flood characteristics of watersheds. The Corps needs to incorporate these altered flood characteristics into updated operation manuals to ensure protection of life and property in both states.

Further, inefficient, inaccurate, or unpredictable operation of the ACF and ACT systems results in growing uncertainty about the supply of water for more than half of Georgia's citizens and for facilities such as the Farley nuclear plant in Alabama and other power plants. The water control plans also should be updated as part of implementing the 2003 settlement reached by the Corps, Georgia, and other parties that will help ensure that metropolitan north Georgia's water needs for the next decade will be met.

The failure of the Corps to update the water control plan is also affecting a stated purpose of lakes in the basin--recreation. West Point officials have asked the Corps to raise the level of the lake by two feet in the winter when water is plentiful to accommodate recreational needs that have a significant impact on the region's economy. But Corps officials have said that they have to adhere to the elevation levels in the IOP. So, it seems that the Corps only has the authority to change its operations when it wants to do so.

What does all of this mean? The Corps is providing flows for endangered sturgeon and mussels under an IOP that was developed without studying its full effects and without properly updating the Corps' grossly outdated water control plans. The Corps' performance under the IOP this year demonstrates that it is not a sustainable plan. The ACF System lost 381,338 acre-feet of storage during the period from March 1 to October 20, 2006, when the IOP has been implemented. This amount corresponds to about 23% of the entire system storage at the summer pool levels. The loss of system storage is the largest among historical drought years of 1986, 1988, 1999, 2000, 2001, and 2006. The system now has just 63% of conservation storage left, which is worse than at the same time in 1999. If the current drought turns out to be as severe and prolonged as the previous one, or even worse, and if the Corps does not take measures to actively conserve water in the reservoirs, system storage will be depleted to levels

never seen before.

Earlier this year, the Corps submitted the IOP to the U.S. Fish and Wildlife Service for consultation pursuant to the Endangered Species Act. On September 5, 2006, the FWS issued its biological opinion regarding the Corps' operations and its effects on threatened species in the Apalachicola River. In the Biological Opinion, the Fish and Wildlife Service found that the flows provided under IOP would be sufficient to allow the threatened and endangered species to survive. But the Biological Opinion failed to recognize that the IOP does not allow the federal reservoirs to refill as they should, and that in a multi-year drought those reservoirs could be drained completely, with potentially devastating effects to human needs and the needs of the very same species that the IOP is designed to protect. The Biological Opinion, therefore, is seriously flawed, and, unfortunately, it looks like we will have to go back to court to challenge it.

At the same time Governor Riley and I are doing our best to put aside the disagreements between our States and reach an agreement on the management and operations of the ACT river basin. If we can find common ground there, it is my hope that we also would reach consensus on the management of the ACF basin. Of course, in the end, the only way any agreement will be successful is if the Corps will manage the basin accordingly. I have met with Governor Riley twice regarding the ACT river basin and we are committed to a resolution. We may need to ask for your help in securing the Corps consent when the time comes.

I hope that there is an opportunity for the Corps to correct its course under Brigadier General Joseph Schroedel. In order to get the Corps' operations on track, I believe that it is going to take real leadership on his part. I look forward to sitting down with General Schroedel in the near future to discuss these important matters.

In closing, I would like to say that I cannot believe Congress passed the Endangered Species Act with the intention of providing substantially more protection for the species than for human beings. The Corps can provide for both the needs of the endangered species and the needs of humans upstream if it operates wisely and is guided by sound science and good planning. For example, I do not believe that Congress intended that the Corps provide the species with more water than even the natural environment would support, particularly when it comes at such a great cost upstream.

It is time for common sense to prevail on this issue. That is what we want from the Corps when asking that they update fifty year old water control plans. That is what we seek through our request to stop the release of water greater than nature would provide.

Thank you again for this opportunity.